§ 300ll–2. CLASS Independence Benefit Plan

(a) Process for development

   (1) In general

   The Secretary, in consultation with appropriate actuaries and other experts, shall develop at least 3 actuarially sound benefit plans as alternatives for consideration for designation by the Secretary as the CLASS Independence Benefit Plan under which eligible beneficiaries shall receive benefits under this subchapter. Each of the plan alternatives developed shall be designed to provide eligible beneficiaries with the benefits described in section 300ll–4 of this title consistent with the following requirements:

   (A) Premiums

      (i) In general

      Beginning with the first year of the CLASS program, and for each year thereafter, subject to clauses (ii) and (iii), the Secretary shall establish all premiums to be paid by enrollees for the year based on an actuarial analysis of the 75-year costs of the program that ensures solvency throughout such 75-year period.

      (ii) Nominal premium for poorest individuals and full-time students

         (I) In general

         The monthly premium for enrollment in the CLASS program shall not exceed the applicable dollar amount per month determined under subclause (II) for—

         (aa) any individual whose income does not exceed the poverty line; and
         (bb) any individual who has not attained age 22, and is actively employed during any period in which the individual is a full-time student (as determined by the Secretary).

         (II) Applicable dollar amount

         The applicable dollar amount described in this subclause is the amount equal to $5, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for each year occurring after 2009 and before such year.

      (iii) CLASS Independence Fund reserves

         At such time as the CLASS program has been in operation for 10 years, the Secretary shall establish all premiums to be paid by enrollees for the year based on an actuarial analysis that accumulated reserves in the CLASS Independence Fund would not decrease in that year. At such time as the Secretary determines the CLASS program demonstrates a sustained ability to finance expected yearly expenses with expected yearly premiums and interest credited to the CLASS Independence Fund, the Secretary may decrease the required amount of CLASS Independence Fund reserves.

   (B) Vesting period

   A 5-year vesting period for eligibility for benefits.

   (C) Benefit triggers

   A benefit trigger for provision of benefits that requires a determination that an individual has a functional limitation, as certified by a licensed health care practitioner, described in any of the following clauses that is expected to last for a continuous period of more than 90 days:
(i) The individual is determined to be unable to perform at least the minimum number (which may be 2 or 3) of activities of daily living as are required under the plan for the provision of benefits without substantial assistance (as defined by the Secretary) from another individual.

(ii) The individual requires substantial supervision to protect the individual from threats to health and safety due to substantial cognitive impairment.

(iii) The individual has a level of functional limitation similar (as determined under regulations prescribed by the Secretary) to the level of functional limitation described in clause (i) or (ii).

(D) Cash benefit

Payment of a cash benefit that satisfies the following requirements:

(i) Minimum required amount

The benefit amount provides an eligible beneficiary with not less than an average of $50 per day (as determined based on the reasonably expected distribution of beneficiaries receiving benefits at various benefit levels).

(ii) Amount scaled to functional ability

The benefit amount is varied based on a scale of functional ability, with not less than 2, and not more than 6, benefit level amounts.

(iii) Daily or weekly

The benefit is paid on a daily or weekly basis.

(iv) No lifetime or aggregate limit

The benefit is not subject to any lifetime or aggregate limit.

(2) Review and recommendation by the CLASS Independence Advisory Council

The CLASS Independence Advisory Council shall—

(A) evaluate the alternative benefit plans developed under paragraph (1); and

(B) recommend for designation as the CLASS Independence Benefit Plan for offering to the public the plan that the Council determines best balances price and benefits to meet enrollees’ needs in an actuarially sound manner, while optimizing the probability of the long-term sustainability of the CLASS program.

(3) Designation by the Secretary

Not later than October 1, 2012, the Secretary, taking into consideration the recommendation of the CLASS Independence Advisory Council under paragraph (2)(B), shall designate a benefit plan as the CLASS Independence Benefit Plan. The Secretary shall publish such designation, along with details of the plan and the reasons for the selection by the Secretary, in a final rule that allows for a period of public comment.

(b) Additional premium requirements

(1) Adjustment of premiums

(A) In general

Except as provided in subparagraphs (B), (C), (D), and (E), the amount of the monthly premium determined for an individual upon such individual’s enrollment in the CLASS program shall remain the same for as long as the individual is an active enrollee in the program.

(B) Recalculated premium if required for program solvency

(i) In general

Subject to clause (ii), if the Secretary determines, based on the most recent report of the Board of Trustees of the CLASS Independence Fund, the advice of the CLASS
Independence Advisory Council, and the annual report of the Inspector General of the Department of Health and Human Services, and waste, fraud, and abuse, or such other information as the Secretary determines appropriate, that the monthly premiums and income to the CLASS Independence Fund for a year are projected to be insufficient with respect to the 20-year period that begins with that year, the Secretary shall adjust the monthly premiums for individuals enrolled in the CLASS program as necessary (but maintaining a nominal premium for enrollees whose income is below the poverty line or who are full-time students actively employed).

(ii) Exemption from increase

Any increase in a monthly premium imposed as result of a determination described in clause (i) shall not apply with respect to the monthly premium of any active enrollee who—

(I) has attained age 65;

(II) has paid premiums for enrollment in the program for at least 20 years; and

(III) is not actively employed.

(C) Recalculated premium if reenrollment after more than a 3-month lapse

(i) In general

The reenrollment of an individual after a 90-day period during which the individual failed to pay the monthly premium required to maintain the individual’s enrollment in the CLASS program shall be treated as an initial enrollment for purposes of age-adjusting the premium for reenrollment in the program.

(ii) Credit for prior months if reenrolled within 5 years

An individual who reenrolls in the CLASS program after such a 90-day period and before the end of the 5-year period that begins with the first month for which the individual failed to pay the monthly premium required to maintain the individual’s enrollment in the program shall be—

(I) credited with any months of paid premiums that accrued prior to the individual’s lapse in enrollment; and

(II) notwithstanding the total amount of any such credited months, required to satisfy section 300ll–1 (6)(A)(ii) of this title before being eligible to receive benefits.

(D) No longer status as a full-time student

An individual subject to a nominal premium on the basis of being described in subsection (a)(1)(A)(ii)(I)(bb) who ceases to be described in that subsection, beginning with the first month following the month in which the individual ceases to be so described, shall be subject to the same monthly premium as the monthly premium that applies to an individual of the same age who first enrolls in the program under the most similar circumstances as the individual (such as the first year of eligibility for enrollment in the program or in a subsequent year).

(E) Penalty for reenrollment after 5-year lapse

In the case of an individual who reenrolls in the CLASS program after the end of the 5-year period described in subparagraph (C)(ii), the monthly premium required for the individual shall be the age-adjusted premium that would be applicable to an initially enrolling individual who is the same age as the reenrolling individual, increased by the greater of—

(i) an amount that the Secretary determines is actuarially sound for each month that occurs during the period that begins with the first month for which the individual failed to pay the monthly premium required to maintain the individual’s enrollment in the CLASS program and ends with the month preceding the month in which the reenrollment is effective; or
(ii) 1 percent of the applicable age-adjusted premium for each such month occurring in such period.

(2) Administrative expenses

In determining the monthly premiums for the CLASS program the Secretary may factor in costs for administering the program, not to exceed for any year in which the program is in effect under this subchapter, an amount equal to 3 percent of all premiums paid during the year.

(3) No underwriting requirements

No underwriting (other than on the basis of age in accordance with subparagraphs (D) and (E) of paragraph (1)) shall be used to—

(A) determine the monthly premium for enrollment in the CLASS program; or

(B) prevent an individual from enrolling in the program.

(c) Self-attestation and verification of income

The Secretary shall establish procedures to—

(1) permit an individual who is eligible for the nominal premium required under subsection (a)(1)(A)(ii) to self-attest that their income does not exceed the poverty line or that their status as a full-time student who is actively employed; 2

(2) verify, using procedures similar to the procedures used by the Commissioner of Social Security under section 1383 (e)(1)(B)(ii) of this title and consistent with the requirements applicable to the conveyance of data and information under section 1396w–2 of this title, the validity of such self-attestation; and

(3) require an individual to confirm, on at least an annual basis, that their income does not exceed the poverty line or that they continue to maintain such status.

Footnotes

1 So in original. Probably should be “reenrollment”.
2 So in original.


Amendments


Subsec. (c)(1). Pub. L. 111–148, § 10801(a)(1)(B), struck out “. as part of their automatic enrollment in the CLASS program,” after “subsection (a)(1)(A)(ii)”. 