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General Counsel
88-00340

29 January 1988
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MEMORANDUM FOR: Chief, Administrative Law Division/OGC

FROM: [redacted] Legislation Division
Office of Congressional Affairs

STAT

SUBJECT: Long-Term Care Insurance, S. 1738 and H.R. 384

1. Attached for your review is a copy of S. 1738, which provides for the establishment of optional group long-term insurance coverage for Federal civilian employees. It sets forth standards for employee contribution rates, withholding from employees' pay, and insurers.

2. H.R. 384 proposes to require the Office of Personnel Management to conduct a demonstration project to study the feasibility of securing a health maintenance organization to provide long-term health care benefits. This project would exist from 1989 to 1991.

3. It is quite likely that these bills will move during the current session of Congress. You may telephone me on secure [redacted] if you have any comments.

[redacted]

Attachments

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100TH CONGRESS
1ST SESSION

S. 1738

To make long-term care insurance available to civilian Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 25), 1987

Mr. WILSON (for himself, Mr. DOLE, and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To make long-term care insurance available to civilian Federal employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That chapter 87 of title 5, United States Code, is amended—

4 (1) in section 8704, by adding a new subsection (e) to
5 read:

6 “(e)(1) The Office shall provide optional group long-term
7 insurance coverage for civilian employees in accordance with
8 the following terms and conditions:

9 “(A) Consistent with the conditions, directives,
10 and terms specified in section 8709 and 8712 of this

1 title, the Office shall arrange for each qualified employ-
2 ee, as defined in paragraph (4) of this subsection, to
3 have an opportunity to irrevocably convert a portion of
4 the employee's basic insurance amount and associated
5 accrued projected claims reserve funds, as determined
6 by the Office of Personnel Management, for purposes
7 of group life insurance and accidental death and dis-
8 memberment insurance under this section to group
9 long-term care insurance.

10 "(B) The long-term care insurance shall provide
11 specified dollar reimbursements for a period of at least
12 1 year's duration to offset expenses related to nursing
13 home and home health services required by the em-
14 ployee and may include additional benefits which the
15 Office determines to be appropriate. The long-term
16 care insurance shall, as the Office deems appropriate,
17 offer employees more than one reimbursement plan
18 from more than one insurer.

19 "(C) The Office shall determine appropriate em-
20 ployee contributions which will be payable for all peri-
21 ods during which long-term care insurance continues
22 and will be withheld from any salary, compensation, or
23 retirement annuity due an insured individual. Each em-
24 ployee's contribution rate under this subsection shall be
25 determined by the employee's age at the time an elec-

1 tion is made for purposes of this subsection, relative to
2 such age and rate categories as the Office determines
3 will, with adjustments provided for by paragraph (3)
4 below, fully cover estimated long-term care insurance
5 policy costs in excess of the actuarial value of the life
6 insurance conversion amount.

7 “(D) The Office shall establish appropriate age
8 and rate categories for qualified employees who wish to
9 avoid the basic insurance conversion requirement and
10 pay the full cost of group long-term care coverage.

11 “(E) The Office shall also arrange for qualified
12 employees who elect group long-term care insurance
13 on themselves under this subsection to have, simultane-
14 ous with their election or upon subsequent marriage,
15 the option of purchasing supplementary long-term care
16 insurance coverage on a spouse, without evidence of
17 such spouse’s insurability and at appropriate group
18 rates added to the affected employee’s individual con-
19 tribution rate.

20 “(F) An active or retired employee may cease
21 contributions under this subsection at any time, in
22 which case the long-term care insurance shall termi-
23 nate, with no restoration of converted group life insur-
24 ance coverage.

1 “(2) Any employee who elects to convert basic life in-
2 surance to long-term care insurance as provided by para-
3 graph (1) of this subsection shall retain a residual amount of
4 the group life insurance and accidental death and dismember-
5 ment insurance authorized under this section which shall
6 equal the greater of—

7 “(A) \$2,000, or

8 “(B) an amount representing the basic insurance
9 amount generally available based on the employee’s
10 current annual rate of basic pay decreased by the life
11 insurance conversion requirement established pursuant
12 to paragraph (3) of this subsection on the date the em-
13 ployee elected long-term care insurance.

14 “(3) For purposes of this subsection, the Office shall
15 specify the initial dollar amounts for the life insurance cover-
16 sion requirement and, in consultation with insurers, determine
17 the reimbursement rates for benefits under each long-term
18 care insurance plan (including reasonable waiting periods for
19 benefit commencement) and periodic employee contributions
20 for self and for spouse coverage based on age categories of
21 qualified employees as the Office considers appropriate. All
22 amounts determined in accordance with this paragraph shall
23 be subsequently adjusted on the effective date, and in accord-
24 ance with the average percent, of any change in pay rates for
25 the General Schedule authorized under section 5305 of this

1 title. Other adjustments of amounts under this paragraph
2 may be made at such other times and in such amounts as the
3 Office deems necessary and prescribes by regulation. The
4 Office may, through negotiations with insurers, provide op-
5 tions that, by using other indexes, allow increases that
6 exceed those of the General Schedule.

7 “(4) A qualified employee for purposes of this subsection
8 is any employee who is subject to this chapter and who—

9 “(A) is in active service;

10 “(B) attains an age specified by regulations of the
11 Office, which shall be no less than age 50;

12 “(C) is currently insured under this chapter and
13 has been insured for a total of 10 years, or elects to
14 make contributions for long-term care insurance with-
15 out the benefit of the basic insurance conversion au-
16 thorized by paragraph (1) of this subsection; and

17 “(D) has not transferred ownership of life insur-
18 ance to another person under subsection 8506(e) of this
19 chapter.

20 “(5) Unless otherwise provided by regulations of the
21 Office, all elections involving employee insurance under this
22 subsection must be made within a period which the Office
23 shall specify that begins when each employee first becomes a
24 qualified employee as described in paragraph (4) of this sub-
25 section.”.

1 (2) in subsection 8706(a)—

2 (A) by inserting “life insurance” immediately
3 before “policy purchase”; and

4 (B) by inserting the following sentences immedi-
5 ately after the first sentence. “An election of long-term
6 care insurance under subsection 8704(e) shall be disre-
7 garded for purposes of determining an employee’s basic
8 insurance amount under this subsection. A long-term
9 care insurance policy under this chapter may provide
10 for conversion to an individual or group policy upon
11 separation from service.”.

12 (3) by amending subsection 8707(c) to read:

13 “(c)(1) Except as otherwise provided by this subsection,
14 the amount withheld from the pay, annuity, or compensation
15 of each employee subject to insurance deductions under this
16 section shall be at the rate, adjusted to the nearest half-cent,
17 of $66\frac{2}{3}$ percent of the level cost as determined by the Office
18 for each \$1,000 of the employee’s basic insurance amount.

19 “(2) No employee withholding is required under this
20 section, however, for any part of the basic insurance amount
21 that is converted to long-term care insurance under subsec-
22 tion 8704(e) of this title.”;

23 (4) by amending subsection 8708 (a) to read:

24 “(a) Except as otherwise provided by this section, for
25 each period in which an employee is insured under a policy of

1 insurance purchased by the Office of Personnel Management
2 under section 8709 of this title and is subject to withholding
3 under section 8707 of this title, a sum equal to one-half of the
4 general employee withholding specified under subsection
5 8707(c)(1) of this title shall be contributed from the appro-
6 priation or fund used to pay the employee. Contributions
7 under this section shall be apportioned between basic life in-
8 surance and long-term care insurance accounts in the Em-
9 ployees' Life Insurance Fund if an employee has elected the
10 basic insurance conversion permitted under subsection
11 8704(e) of this title.”;

12 (5) in section 8708, by adding a new subsection (d) to
13 read:

14 “(d) The sum required by subsection (a) of this section in
15 the case of each employee who retires on immediate annuity
16 or commences receiving compensation under subchapter I of
17 chapter 81 of this title after December 31, 1989, and who
18 elects to retain insurance in accordance with 8706(b)(3)(A) of
19 this chapter, shall be paid by the Office from annual appro-
20 priations which are hereby authorized to be made for that
21 purpose and which may be made available until expended.”;

22 (6) by amending subsection 8709(a) to read:

23 “(a) The Office of Personnel Management may, in its
24 sole discretion and without regard to section 5 of title 41,
25 United States Code, purchase from one or more duly licensed

1 insurers a policy or policies to provide benefits specified by
2 this chapter, including group life insurance, accidental death
3 and dismemberment insurance, and long-term care insurance.
4 For long-term care insurance, purchase will be through a
5 competitive process among insurers who agree to accept li-
6 ability for the benefits offered. To be eligible for consideration
7 as an insurer under this chapter, an entity must meet the
8 following requirements:

9 “(1) For purposes of group life and accidental
10 death and dismemberment insurance, it must—

11 “(A) be licensed to transact such insurance
12 in all the States, and

13 “(B) have in effect, on the most recent De-
14 cember 31 for which information is available to
15 the Office, an amount of employee group life in-
16 surance equal to at least 1 percent of the total
17 amount of employee group life insurance in the
18 United States in all life insurance companies.

19 “(2) For purposes of group long-term care insur-
20 ance, it must—

21 “(A) be licensed to transact group life or
22 health insurance in each State in which the com-
23 pany proposes to offer long-term care benefits
24 provided by this chapter, and

1 “(B) have, in the judgment of the Office,
2 long-term care expertise, substantial experience
3 with insuring very large groups, and financial
4 soundness.”.

5 (7) in subsection 8710(a)—

6 (A) by inserting “life and accidental death and
7 dismemberment” immediately after “total amount of”;
8 and

9 (B) by adding at the end thereof the following
10 new sentence: “This section shall not apply to long-
11 term care insurance authorized under subsection
12 8704(e) of this chapter.”.

13 (8) by amending the fourth sentence of section 8712 to
14 delete the word “life”; and

15 (9) in the first sentence of subsection 8714(a) by insert-
16 ing “8704(e) or” before “8707”.

17 SEC. 2. This Act shall take effect on January 1 of the
18 first year which begins at least 120 days after enactment.

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100TH CONGRESS
1ST SESSION

H. R. 384

To provide that a demonstration project be conducted to determine the feasibility and desirability of providing benefits relating to certain social and long-term health services under the Federal employees health benefits program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1987

Ms. OAKAR (for herself and Mr. SIKORSKI) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To provide that a demonstration project be conducted to determine the feasibility and desirability of providing benefits relating to certain social and long-term health services under the Federal employees health benefits program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Federal Employees
5 Long-Term Health Care Act of 1987".

6 SEC. 2. DEFINITIONS.

7 For purposes of this Act—

1 (1) the term "enrollee" means an individual en-
2 rolled in a health benefits plan; and

3 (2) the terms "health benefits plan", "carrier",
4 and "family member" each has the meaning given such
5 term under chapter 89 of title 5, United States Code.

6 **SEC. 3. DEMONSTRATION PROJECT.**

7 (a) **IN GENERAL.**—The Office of Personnel Manage-
8 ment shall, during calendar years 1989, 1990, and 1991,
9 conduct a demonstration project to determine the feasibility
10 and desirability of including, on a permanent basis, the
11 concept of a social health maintenance organization under
12 chapter 89 of title 5, United States Code.

13 (b) **SCOPE OF THE PROJECT.**—The project—

14 (1) shall involve any comprehensive medical plan
15 under section 8903(4) of title 5, United States Code,
16 which, on or before the date of the enactment of this
17 Act, participates in a project described in section
18 2355(b) of the Deficit Reduction Act of 1984, relating
19 to social health maintenance organizations; and

20 (2) shall cover a sufficient number of enrollees and
21 family members to provide an adequate basis on which
22 to make the determinations referred to in subsection
23 (a).

24 (c) **TERMS AND CONDITIONS.**—Under the demonstra-
25 tion project, any contract under chapter 89 of title 5, United

1 States Code, between the Office and the carrier offering a
2 plan described in subsection (b)(1) shall, to the extent that
3 such contract relates to individuals covered by the demon-
4 stration project—

5 (1) include, in addition to the types of benefits
6 which would otherwise be provided, benefits relating
7 to—

8 (A) home nursing care;

9 (B) physical, speech, and occupational
10 therapy;

11 (C) homemaker care;

12 (D) personal care;

13 (E) foot care;

14 (F) durable medical equipment (including
15 hearing aids and dentures);

16 (G) medical transportation;

17 (H) adult day care;

18 (I) respite care; and

19 (J) intermediate or skilled facility care;

20 (2) provide that benefits (other than the types of
21 benefits which would otherwise be provided) may be
22 provided to an individual only if the individual—

23 (A) is at least 21 years of age;

1 (B) is not participating in a project described
2 in section 2355(b) of the Deficit Reduction Act of
3 1984; and

4 (C)(i) satisfies the pre-admission screening re-
5 quirements for nursing home care established
6 under the laws of the State within which the indi-
7 vidual resides; but

8 (ii) is not receiving nursing home care; and
9 (3) provide that—

10 (A) benefits under paragraph (1)—

11 (i) will not be subject to any deductible;
12 and

13 (ii) will be limited to expenses totalling
14 not more than \$18,000 per calendar year,
15 with the individual being liable for 25 per-
16 cent of any such expenses;

17 (B) payments relating to benefits under para-
18 graph (1) will not be taken into account for pur-
19 poses of meeting any deductible relating to bene-
20 fits otherwise provided under the plan;

21 (C) benefits under paragraph (1) other than
22 those referred to in subparagraph (J) of such
23 paragraph will be limited to \$1,500 per calendar
24 month; and

1 (D) benefits under paragraph (1)(J) (relating
2 to intermediate or skilled facility care) for any
3 particular "spell of illness" may not exceed 150
4 calendar days.

5 For purposes of paragraph (3)(D), any intermediate or skilled
6 facility care received by an individual shall be considered to
7 relate to a single "spell of illness" until such time as there
8 occurs a continuous period of 60 calendar days during which
9 the individual does not receive any such care. Any intermedi-
10 ate or skilled facility care received after any such period shall
11 be considered to relate to a different "spell of illness".

12 **SEC. 4. PROJECT DESIGN AND EVALUATION.**

13 (a) **DESIGN.**—The design of the project, including crite-
14 ria for experimental and control groups, benefit protocols,
15 and data collection, shall be determined jointly by the Office
16 of Personnel Management, participating carriers, and the
17 consultant under subsection (c).

18 (b) **EVALUATION.**—(1) Periodic written evaluations of
19 the project shall be submitted by the consultant to the Com-
20 mittee on Post Office and Civil Service of the House of Rep-
21 resentatives, the Committee on Governmental Affairs of the
22 Senate, the Office of Personnel Management, and each carri-
23 er participating in the project. Evaluations shall relate to—

24 (A) the cost and efficacy of the additional benefits
25 provided under the project;

1 (B) the extent to which such benefits are used;
2 and

3 (C) any other matter which the consultant consid-
4 ers appropriate.

5 (2) The consultant shall submit a final report on the
6 project to the committees of Congress referred to in para-
7 graph (1) not later than June 30, 1991.

8 (c) CONSULTANT.—The Office shall enter into a con-
9 tract with a consultant which, on the basis of its expertise
10 and experience (particularly with regard to the design of
11 projects under section 2355(b) of the Deficit Reduction Act of
12 1984), is especially qualified to carry out the requirements of
13 this section. The authority to enter into such a contract may
14 be exercised only to such extent or in such amounts as are
15 provided in appropriation Acts.

16 SEC. 5. CONTRIBUTIONS AND FUNDING.

17 (a) CONTRIBUTIONS.—Notwithstanding any other pro-
18 vision of law, individual contributions and Government con-
19 tributions under section 8906 of title 5, United States Code,
20 shall be determined as if the preceding provisions of this Act
21 had not been enacted.

22 (b) FUNDING.—There is authorized to be appropriated
23 to carry out this Act, \$3,000,000 in each of fiscal years
24 1989, 1990, and 1991.