STATEMENT BY
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TO THE SPECIAL COMMITTEE ON AGING AND THE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

HEARING ON
FEDERAL LONG-TERM CARE INSURANCE PROGRAM (FLTCIP) PREMIUM INCREASE

OCTOBER 14, 2009

Chairmen Kohl and Akaka, and members of the committees, on behalf of our nation's 4.6 million federal employees, retirees and survivors, I appreciate the opportunity to express the views of the National Active and Retired Federal Employees Association (NARFE) on the recent premium increase in the Federal Long Term Care Insurance Program (FLTCIP).

President Clinton's signature on the legislation which created the FLTCIP in September 2000 marked the end of NARFE's decade-long effort to write, negotiate, promote and finally move the bill through the legislative process and on to the President's desk. NARFE takes pride in the fact that we played the leading role in ensuring that millions of families in the federal and military communities would have access to long-term care benefits without being sent to the poor house.

Those efforts make even deeper our disappointment with the Office of Personnel Management's (OPM) announcement earlier this year that the new FLTCIP contract will mean a 25 percent premium increase for most enrollees who added automatic compound inflation (ACI) protection to their coverage.

During the late 1990s when this program was first envisioned, NARFE and other organizations which represent mature and older Americans were vexed with the inadequacies of financing and the unaffordability of long-term care. Medicaid was, and remains, the only government program that provides severely disabled and cognitively impaired persons with comprehensive long-term care. Unfortunately, the program requires individuals seeking eligibility to impoverish themselves before qualifying for benefits.

At the outset of our discussions, many aging organizations took a dim view of long-term care insurance, particularly policies sold on the individual market, because products on the market were very expensive, offered limited coverage, and carriers often increased premiums annually. In the late 1990s, however, the group long-term care insurance industry asserted that the marketplace had all changed and that their product had matured. Carriers said they had learned hard lessons about setting premiums and assured prospective consumers that they could lock in a premium rate they would pay for the rest of their lives, similar to the situation with term life insurance.

Indeed, when the program was launched, OPM and Long Term Care Partners – the administrators of the program under a partnership between Metropolitan Life and John Hancock – said that a rate hike would be "unlikely" because in constructing the plan they used the conservative assumptions of the National Association of Insurance Commissioners (NAIC) about benefit claims, premium and investment income, and lapsed rates. As a result, they said, FLTCIP would likely avoid the premium increases which were commonplace in the individual market and which were anticipated at that time in the nation's second largest group plan sponsored, the California Public Employees Retirement System (CALPERS).

While long-term care insurance had supposedly matured as a product, the product was not perfect. Individuals with certain health conditions were denied coverage, and many low and moderate income individuals could not afford to pay premiums. Still, NARFE believed a significant percentage of the federal and military community, with the means to pay premiums and satisfy underwriting requirements, would benefit from the coverage because it could protect their hard-earned assets and allow them to select the long-term care providers of their choice.

Many hoped the FLTCIP would not only provide the federal civilian and uniformed services with the improved product, but also serve as an example to other employers and educate consumers about the importance of long-term care insurance far beyond the federal government. What is more, every dollar paid by a policy for long-term care was one less dollar paid by taxpayers for Medicaid benefits.

In 2002 when FLTCIP was launched, eligible individuals were assured that the program would have "premium stability." The likelihood of a rate hike was downplayed in promotional materials. Indeed, FLTCIP applicants would have to wade through 20 pages of the 38-page benefit booklet to find an explanation about the possibility of rate hikes.

After reviewing the program's first seven years, we are concerned that early warning signs within the industry were not heeded. As a result, opportunities to mitigate the current premium increase may have been disregarded or missed. A rate hike could have been less painful had it been phased in and assessed earlier. As an example, the General Accountability Office's (GAO) 2006 report (GAO-06-401) on the FLTCIP found:

> *"Beginning in 2003, many carriers in the individual market raised premiums, left the marketplace, or consolidated to form larger companies. This activity occurred in response to several factors including high administrative expenses relative to*

premiums; lower-than-expected lapse rates, which increased the number of people likely to submit claims; low interest rates, which reduced the expected return on investments; and new government regulations limiting direct marketing by telephone. Many carriers revised the assumptions used in setting their premium rates, taking a more conservative approach that led to higher premiums, while state regulators increased their oversight of the industry."

Although GAO addressed the individual market in this excerpt, it is clear that the group market was facing many of the same pressures, and carriers consolidated as a consequence.

Given that the industry's problems started in 2003, we have to ask: "when did low lapsed rates and low interest rates in FLTCIP become apparent?" "When did either Long Term Care Partners or OPM consider whether rates should be adjusted to address the shortfall?" Certainly, premiums can be increased as part of the seven year contract renewal, but the law also allows for OPM to hike rates – in consultation with the carrier – at any point during the term of the contract.

While OPM used the 2000 NAIC rate stability model to set premiums, such standards are meant to be a floor. Nothing, and nothing prevents either states or OPM from requiring more protective standards. NARFE has to wonder if the premium increase could have been avoided or minimized had OPM required more stringent standards. We would like to believe that the more protective standards that have been included in the second contract will better safeguard FLTCIP enrollees from future rate hikes.

Automatic Compound Inflation (ACI)

Apart from premiums, much of FLTCIP marketing was devoted to explaining the complexities of several different coverage options, including automatic compound inflation (ACI) protection. According to the GAO, "several experts and industry officials said the federal government was a leader in the group market by encouraging enrollees to choose more comprehensive inflation-protection benefits." As a result, 68 percent of enrollees signed up for the option.

In addition to OPM, we recommended to NARFE members that they select the inflation protection, particularly for persons who anticipated that they would not need long-term care for several years.

Bad Options for Enrollees with ACI

This year, the very people who prudently selected the ACI option have been singled out to shoulder a 25 percent premium increase or take a one percent cut in their ACI coverage, or trade it away for reduced coverage under the "personalized choices" being offered to affected enrollees.

I don't have to imagine their outrage, I hear it every day from angry federal workers and annuitants who call and write, and, who ask me about it whenever I travel to NARFE meetings across the country.

Many of them have invested tens of thousands of dollars in their policies and are confronted with choices that go from bad to worse. For example, they could opt out of the FLTCIP and buy a plan on the individual market. But, they would pay at a higher rate on the individual market because premiums are based on age. Moreover, finding coverage elsewhere might not be an option if they can no longer pass a new plan's medical underwriting standards.

For those who remain in the FLTCIP, we believe that enrollees should have been given the option to trade their ACI for a higher benefit amount. Indeed, when coverage was first offered, some professional financial planners suggested to certain clients that they buy a benefit amount in excess of current long-term care costs, as an alternative to the ACI's hedge against inflation. In fact, eligible individuals that selected a higher benefit amount in lieu of ACI are not facing a rate hike.

We think it is wrong to expose workers and annuitants to additional underwriting if their coverage changes result in an overall benefits increase. Why should enrollees who played by the rules, through no fault of their own be penalized for the decisions of others?

We do not believe that there will be enough time for participants to consider all of the benefit options between October 26, when the mailings to enrollees with ACI will begin, and December 14 when the "special decision period" ends. While OPM has shared with us the guidance and timetable provided to federal agency human resource offices, we have not seen a draft of the October 26 mailing. The materials sent to enrollees must be clear and easy to understand if we are to make informed decisions about our benefits.

The Future of FLTCIP

A long-term care insurance program with a 25 percent rate hike -- where premium increases were marketed as unlikely – is a much tougher sell. No one wants to be burned again. NARFE is put in the position of wanting to encourage our members to plan for their future, while having great difficulty recommending a product whose premiums are not necessarily predictable or affordable.

Still, we cannot ignore the fact that financing and access to long-term care continues to be a priority for millions of Americans. Our situation will only deteriorate as the baby boomer generation retires, the number of older persons nearly doubles, and longevity increases.

To start, we must restore confidence in our own program if it is to survive and be an example for other employers to follow.

For instance, it is our understanding that fewer insurance carriers competed for the FLTCIP contract this year. Many of us are concerned that the downturn in the long-term care insurance industry and further consolidation of insurance companies could make matters worse in 2016 when the contact is re-bid. Consolidation means there is less competitive pressure on carriers to provide the federal and military families with the best possible product. For that reason, now may be the time for Congress to consider whether the FLTCIP should self-insure.

We would be the first to admit that a self-insured FLTCIP is not a panacea. For instance, the CALPERS long-term care insurance program is self-insured and their structure did not prevent premium increases from being imposed on their enrollees.

If the committee finds that OPM and Long Term Care Partners could have mitigated the premium increase by acting sooner, then the need for increased oversight is clear. The FLTCIP law currently mandates a GAO study in the third and fifth year of every contract, but perhaps an annual review of the program's cost and premiums would be necessary to avoid future "7 year surprises."

Some may suggest that FLTCIP be restructured so that several insurance carriers be allowed to offer long-term care insurance to the federal and military communities. When the authorizing legislation was being written, NARFE supported the concept of limiting the program to a single carrier for several reasons.

Experience with employer-sponsored long-term care insurance found that only six percent of those eligible have elected to buy policies. If several carriers were competing for this relatively small customer base, each would create its own administrative and marketing infrastructures. Such duplication would be costly and undermine the economy of scale that is critical in a group insurance environment. Duplicative administrative costs would be passed along to federal employees and annuitants, raising premiums.

We also believed that the presence of a large number of carriers in the program would increase the likelihood of adverse selection and risk fragmentation. Carriers could have designed long-term care insurance products that would have attracted only those enrollees least likely to need long-term care. If that had occurred, individuals who had met underwriting standards -- but were nonetheless more probable candidates for long-term care -- would have been left in other plans. Such plans would have been required to increase premiums and become unaffordable to those left behind.

The purpose of any group insurance is to spread risk across the largest possible community of coverage. Without risk-sharing in an employer-sponsored group long-term care insurance program, higher risk enrollees would face exorbitant premium costs. Limiting the number of carriers helped to protect this fundamental principle of insurance.

NARFE continues to believe that allowing several carriers to participate in the FLTCIP offers no advantages over the current structure. Indeed, competing carriers could have lowered premiums to attract market share, only to have to raise rates later to fund shortfalls created by claims experience and lower than anticipated lapsed rates and interest rates.

S. 1177, Confidence in Long-Term Care Insurance Act of 2009

With regard to the broader long-term care insurance industry, we commend you, Chairman Kohl for introducing S. 1177, the Long-Term Care Insurance Act of 2009. Your legislation would improve oversight and transparency of the insurance industry, help consumers better compare complex long-term care plans, and enhance consumer protections, including more stringent regulatory authority to require that tax qualified plans – including the FLTICP – price their product appropriately.

Conclusion

Whether it is a matter of poor planning, the signing of a new contract, or the twists and turns of the economic marketplace, our paramount concern, and hopefully our mutual concern, is protecting the benefits of employees, annuitants and their families, and ensuring stability and protection from erosion of their earned benefits. Chairmen Kohl and Akaka, and Ranking Members Coker and Voinovich, we commend you for your interest in restoring the Federal Long Term Care Insurance Program's stability by ensuring that coverage is preserved and rate hikes are prevented.

I would be happy to answer any questions you may have.