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Paying for the Long-Term Care of the Elderly: Current Sources of Payment, Potential Issues, and a Proposal for a New Way to Finance Long-Term Care

*Eric S. Kim**

I. INTRODUCTION

Of the over ten million Americans that received long-term care in 2005, fifty-eight percent were over the age of sixty-five.[1] On average, long-term care provided at nursing homes can cost around $72,000 per year, while long-term care provided through assisted living facilities can cost around $38,000 per year.[2] In 2006, the overall expenditure for long-term care in the United States (US) was nearly $178 billion.[3] An average sixty-five-year-old individual has approximately a thirty-five to fifty percent chance of using long-term care services.[4] Furthermore, the average stay in a long-term care facility is likely to be less than three years. In addition, forty to sixty percent of all stays last less than one year, but eleven to twenty-one percent of stays last five years or longer.[5]

Since the majority of the community-based long-term care population relies on family members, relatives, friends, or volunteers as the primary

* Student, Loyola University Chicago School of Law.

1. Judith Feder et al., LONG-TERM CARE FIN.: POLICY OPTIONS FOR THE FUTURE 7 (Georgetown Univ., Long-Term Care Fin. Proj., ed. 2007). The cited 2005 National Health Interview Survey and 2004 National Nursing Home Survey data could not be substantiated.

2. KAISER COMM'N ON MEDICAID FACTS, MEDICAID AND LONG-TERM CARE SERV. AND SUPPORTS 1 (2011), *available at* http://www.kff.org/medicaid/upload/2186-08.pdf. The cited 2010 CMS National Health Accounts Data could not be substantiated.

3. *Id*.

4. Jeffery R. Brown & Amy Finkelstein, *Private Mkt. for Long-Term Care Ins. in the United States: A Review of the Evidence*, 76 J. OF RISK AND INS. 5, 10 (2009).

5. *Id*.

source of help with daily activities, the true cost of long-term care can be difficult to measure.[6] Approximately four-fifths of the national long-term care spending is on the elderly.[7] Furthermore, a 2011 study by McKinsey & Company has shown that long-term and home care has grown faster than any other segment of the health economy since 2006.[8] As the baby boomer generation ages and reaches retirement, the population making use of long-term and home care can be expected to grow significantly and increase the demand for long-term care.[9] Therefore, overall expenditures on long-term care and health care overall are likely to increase accordingly.

By 2020, over twelve million Americans are expected to need long-term care.[10] The US government expects most people to receive long-term care at home, with family and friends being care providers for seventy percent of the elderly.[11] Most long-term care involves assistance with support services in daily living activities, such as dressing, bathing, and using the restroom.[12] However, Medicare does not pay for long-term care because Medicare does not pay for activities that are considered to be part of daily living.[13] Medicare pays only for medically necessary skilled nursing facilities or home health care.[14]

In addition, the economic recession is projected to have significant effects on the health care system and future health care spending, as the recession influences slower spending growth. The recession is also

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6. H. Stephen Kaye et al., *Long-Term Care: Who Gets It, Who Provides It, Who Pays, And How Much?*, 29 HEALTH AFFAIRS 11, 20 (2010).

7. *Id*. at 19.

8. Jesse W. Bradford et al., ACCOUNTING FOR THE COST OF U.S. HEALTH CARE: PRE-REFORM TRENDS AND THE IMPACT OF THE RECESSION 23 (McKinsey & Co., McKinsey Ctr. for U.S. Health Sys. Reform Proj., ed. 2011).

9. *Id*. at 24.

10. MEDICARE.GOV, *What is Long-Term Care?*, *available at* http://www.medicare.gov/longtermcare/static/home.asp. (last visited Feb. 17, 2013,)

11. *Id*.

12. *Id*.

13. *Id*.

14. *Id*.

assumed to contribute a shift in payment sources, as more individuals are expected to finance long-term care using Medicaid rather than private health insurance and private savings as result of the recession.[15]

Currently, the US health care system lacks a coordinated financing system for long-term care.[16] Medicare provides limited coverage of long-term care, and Medicaid has become the primary funding source for long-term care.[17]

This system of paying for long-term care cannot continue. It seems likely that the future demand for long-term care will rise at a higher rate compared to the current rate of growth due to the aging of the baby-boomer generation. Furthermore, the reliance on Medicaid by the elderly for long-term care also can be expected to increase. Paying for long-term care will be one of the most significant issues in the future of health care, and an alternative way to source long-term care to alleviate current financial problems of paying for long-term care should be explored.

II. CURRENT LONG-TERM CARE FINANCE OPTIONS

Most of the long-term care of the elderly is provided through personal savings, private insurance, Medicaid, Medicare, and family members. Although each of the major long-term care financing options provides a unique way of providing payment, each financing option presents distinct challenges.

First, approximately twenty-two percent of overall long-term care expenditures is funded through personal savings or out-of-pocket

15. Christopher J. Truffer et al., *Health Spending Projections Through 2019: The Recession's Impact Continues*, 29 HEALTH AFFAIRS 1, 7-8 (2010).

16. Paul H. Keckly & Barbara Frink, ISSUE BRIEF: MEDICAID LONG-TERM CARE: THE TICKING TIME BOMB 3 (Deloitte, Ctr. for Health Solutions Proj., ed. 2010).

17. KAISER COMM'N ON MEDICAID AND THE UNINSURED, MEDICAID'S LONG-TERM CARE USERS: SPENDING PATTERNS ACROSS INSTITUTIONAL AND CMTY.-BASED SETTINGS 1 (2011), *available at* http://www.kff.org/medicaid/upload/7576-02.pdf.

expenses.[18] Due to the high cost of long-term care, paying for long-term care can lead to exhausting one's savings.[19] However, reaching the level of impoverishment has a small benefit, as those individuals who have exhausted their savings are likely to qualify for Medicaid when their income and assets dip to qualifying levels.[20]

Private insurance financing accounts for roughly nine percent of total long-term care expenditures.[21] These insurance plans typically offer limited coverage for long-term care and can be expensive.[22] Also, these private insurance plans usually cover long-term care for only a limited time.[23] The combination of the limited coverage and paying high costs for coverage in a distant future has produced an environment of a low demand for long-term care insurance.

Medicaid accounts for about forty percent of total long-term financing.[24] Those that qualify for Medicaid long-term care services are required to have limited assets.[25] Medicaid pays for nursing home stays and other forms of home and community administered long-term care.[26] Medicaid can also act as a significant deterrent to individuals obtaining private long-term care insurance.[27] Since Medicaid is available to anyone who meets the income and asset threshold, Medicaid can be a safety net source of financing for the necessary long-term care services.[28] Although Medicaid has functioned as a

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18. Judith Feder et al., *supra* note 2, at 1.
19. *Id.*
20. Brown & Finkelstein, *supra* note 4, at 10.
21. Judith Feder et al., *supra* note 2, at 1.
22. Joanne Kenen, *The CLASS Act: The Long-Term Care Insurance Program Created by the Affordable Care Act Will be Reshaped to Address Concerns About Solvency*, HEALTH AFFAIRS, May 12, 2011, at 2.
23. *Id*.
24. Judith Feder et al., *supra* note 2, at 1.
25. *See generally, id*.
26. Kenen, *supra* note 22, at 2.
27. Jeffrey R. Brown & Amy Finkelstein, *The Interaction of Public and Private Ins.: Medicaid and the Long-Term Care Ins. Mkt.*, 98 AM. ECON. REV. 1083, 1096 (2008).
28. *See generally,* Judith Feder et al., *supra* note 2, at 1.

safety net for the most vulnerable members of society, many states are likely to face budgetary issues resulting from rising demand for long-term care financing through Medicaid.[29]

Medicare finances approximately twenty-three percent of total long-term care spending.[30] Medicare usually pays for short-term nursing home stays, health care received in the home after a hospital stay, or for home care if a patient has entered hospice.[31] However, it appears that many people have misperceived Medicare as a potential source for long-term care financing.[32] An AARP survey suggests that many believe Medicare provides more long-term care coverage than the amount of actual long-term care coverage.[33]

The final source of long-term care funding is through informal care by family members. It is common for spouses, children, or other family members of the elderly in need of long-term care to provide the necessary care without receiving any payment. This informal arrangement is often provided without any reporting or acknowledgement. Although informal long-term care is accepted as part of a family life, the hidden costs of informal care do not show up in many studies. The advancements in medicine, shorter hospital stays, reduced discharge planning and transitional care, and improvements in home-based treatments have shifted more treatment outside of health care facilities; as a result, those who provide informal care have faced higher and more complex responsibilities as informal care providers.[34] In 2009, AARP estimated that between 42.1 million and 61.6 million adult caregivers provided informal care at an

29. Kenen, *supra* note 22, at 2.
30. Judith Feder et al., *supra* note 2, at 1.
31. Kenen, *supra* note 22, at 2.
32. *See generally id.*; AARP, THE COSTS OF LONG-TERM CARE: PUB. PERCEPTIONS VERSUS REALITY IN 2006 30 (GfK NOP Roper Pub. Affairs & Media Proj., ed. 2006).
33. *Id*.
34. Lynn Feinberg et al., *Valuing the Invaluable: 2011 Update The Growing Contributions and Costs of Family Caregiving*, AARP 9 (AARP, Pub. Policy Inst. Proj., ed 2011).

economic value of $450 billion.[35]

Providing informal care has additional drawbacks for the providers of such care. Informal care providers are likely to experiences stress[36] and financial hardships.[37] Providing informal care is also likely to negatively affect the provider's employment performance, as informal care providers sometimes miss work, leave early, or even permanently leave their positions.[38] As the result of combined losses in wages, pension, and Social Security, an average female informal care provider is expected to sacrifice $274,044 in her lifetime.[39] For males, an average lifetime loss of $233,716 is expected.[40] When multiplying this estimated average lifetime loss to the 9.7 million people over age of fifty who are providing informal care for their parents, the total loss of wages, pension, and Social Security for the entire population is approximately $3 trillion.[41] The loss of employment productivity as a result of being an informal care provider, such as employees having to be replaced, absenteeism, work interruptions, unpaid leave, and switching from full-time to part-time employment, is estimated to be between $17.1 billion and $33.6 billon.[42]

III. ALTERNATIVE SOURCE OF LONG-TERM CARE FUNDING

The cost providing long-term care becomes significant after

35. *Id.* at 1.

36. *See generally* NATIONAL ALLIANCE FOR CAREGIVING IN COLLABORATION WITH AARP, CAREGIVING IN THE U.S. 50 (2009), *available at* http://www.caregiving.org/data/Caregiving_in_the_US_2009_full_report.pdf.

37. *Id.* at 50-52.

38. *Id.* at 54-55.

39. METLIFE MATURE MARKET INST., METLIFE STUDY OF CAREGIVING COSTS TO WORKING CAREGIVERS: DOUBLE JEOPARDY FOR BABY BOOMERS CARING FOR THEIR PARENTS 14 (2011), *available at* https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-caregiving-costs-working-caregivers.pdf.

40. *Id*.

41. *Id.* at 15.

42. METLIFE MATURE MARKET INST. & NATIONAL ALLIANCE FOR CAREGIVING, JULY 2006, THE METLIFE CAREGIVING COST STUDY: PRODUCTIVITY LOSSES TO U.S. BUSINESS 18 (2006), *available at* https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-caregiver-cost-study-productivity.pdf.

incorporating the hidden expenses. In addition, an overreliance on Medicaid for long-term care at a time when the need for long-term care is expected to increase while the funding for Medicaid is likely to decrease. The Patient Protection and Affordable Care Act attempted to address the long-term care financing issue through the Community Living Assistance Services and Supports Act.[43] Unfortunately, the Community Living Assistance Services and Supports Act was appealed.[44] Long-term care remains one of the most significant uninsured financial risks for the elderly in the US.[45] The number of elderly will increase, thereby increasing the financial burden on federal and state budgets, and utilizing Medicaid as a source of long-term care funding is likely to further strain the federal and state spending.[46]

Adapting Germany's mandatory, long-term care insurance system could provide significant financial assistance to providing long-term care. In 1995, Germany implemented a national mandatory long-term care system, funded through a 1.7 % payroll tax paid together by both employee and employer.[47] Generally, this payroll tax has allowed Germany's long-term care costs to remain financially sustainable.[48]

Germany has a universal health care system, and the health care system in the US significantly differs from the Germany's system; as a result, implementing an identical payroll tax method in the US could be difficult.[49]

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43. 42 U.S.C.A. § 300*ll* (2013).

44. Robert Pear, *Health Law to Be Revised by Ending a Program*, N.Y.TIMES, Oct. 14, 2011.

45. Jeffrey R. Brown & Amy Finkelstein, *Why is the Mkt. for Long-Term Care Ins. So Small?* 91 J. OF PUB. ECON., 1968, 1967-91 (2007).

46. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-05-564T, LONG-TERM CARE FIN. GROWING DEMAND AND COST OF SERV. ARE STRAINING FED. AND STATE BUDGET 11 (2007).

47. Howard Gleckman, *Long-Term Care Fin. Reform: Lessons from the U.S. and Abroad*, COMMONWEALTH FUND 6-7 (, Urban Inst. Proj., ed 2010).

48. *Id.* at 8.

49. Mary J. Gibson & Donald L. Redfoot, *Comparing Long-Term Care in Germany and the United States: What Can We Learn from Each Other?*, AARP 13 (Pub. Policy Inst. Proj.,

However, Medicare appears to be a logical way to create a national long-term care financing system through payroll tax.[50] Currently Medicare already has a system to generate revenue through collecting taxes for future medical treatment[51], and adding another element to the Medicare system can be a natural and gradual expansion of Medicare coverage.

This expansion will require significant research to determine the appropriate tax increase required to address the current and future issues in financing long-term care. Furthermore, this expansion of Medicare can result in additional taxes, and many people will oppose increased taxation. Although this payroll expansion may be unpopular, it is a valid exercise of Congress' legislative power under the US Constitution.[52] In addition, an administrative agency, such as the Centers for Medicare & Medicaid Services, would be likely to gain the authority to create and manage this expansion through the deference it would receive from the Supreme Court.[53]

Collecting additional payroll tax in order to pay for Medicare to manage long-term care financing may be the only way to generate the necessary funding required to deal with the expected increase in usage of long-term care. Although expanding Medicare and its payroll tax may not be the perfect solution to finance long-term care, this expansion of Medicare could be a logical method to address the significant financial problems that will surface in the near future.[54]

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ed. 2007).

50. *See* Jacob S. Hacker, *Restoring Retirement Security: The Market Crisis, The "Great Risk Shift," and The Challenge for Our Nation*, 19 Elder L. J. 1, 45-6 (2011).

51. Lisa Potetz & Juliette Cubanski, *Medicare: A Primer on Medicare Finance*, HENRY J. KAISER FAMILY FOUN. 2 (2009).

52. U.S. Const. art. I, § 8, cl. 1.

53. *See Chevron, U.S.A., Inc. v. Natural Resources Defense*, 104 S.Ct. 2778, 2793 (1984).

54. *See* Hacker, *supra* note 50, at 45-6.

IV. CONCLUSION

Currently long-term care remains one of the most significant uninsured risks for the elderly in the US, as numerous factors have contributed to the current state of long-term care financing. With the expected increase in the retirement of the baby-boomer generation, financing long-term care will remain a significant issue. Expanding Medicare to provide coverage of long-term care and financing may not be a perfect solution, but these changes could be a logical method to address the inevitable financial problems that will surface in the near future.[55]

55. *Id.*