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STICKER SHOCK: WHAT'S THE TRUE COST OF FEDERAL LONG-TERM CARE INSURANCE

JOINT HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING

AND

SUBCOMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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STICKER SHOCK: WHAT'S THE TRUE COST OF FEDERAL LONG-TERM CARE INSURANCE

WEDNESDAY, OCTOBER 14, 2009

U.S. SENATE,
SPECIAL COMMITTEE ON AGING, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committees met at 2:35 p.m. in room SD–342, Dirksen Senate Office Building, Hon. Herb Kohl, Chairman of the Special Committee on Aging, presiding.

Members Present: Senators Kohl [presiding], Wyden, Kirk, Corker, LeMieux, Akaka, Burris, Collins, and Voinovich.

OPENING STATEMENT OF SENATOR HERB KOHL, RANKING MEMBER

The CHAIRMAN. Good afternoon, everybody. We appreciate your being here.

At this time we will commence with this hearing.

We are glad to be joining forces today with Senator Akaka's subcommittee to talk about the Federal long-term care insurance program. It is important that we begin this hearing with an understanding of the crucial role long-term care insurance can play for so many Americans both now and also as our country ages at such a quick and unprecedented rate. Planning for the long-term care needs of ourselves, our spouses, and our parents is a source of growing anxiety all across our country.

Many people do not realize that our current public and private health insurance programs do not cover long-term care. Elderly individuals who cannot take care of themselves must exhaust nearly all of their savings and then, and only then, will Medicaid pay for their care. For the relatively few who have it, long-term care insurance allows them to avoid this scenario. It goes a long way toward alleviating the immense strain on State and Federal Medicaid budgets, so we do want this product to work. In fact, we do need it to work.

This brings us to the topic of today's hearing which is the Federal Long Term Care Insurance Program, the largest program of its kind. In 2003, OPM was trying to help Federal employees prepare for their long-term care needs when they rolled out their long-term care insurance program. Their intentions in providing this benefit were good, but 7 years later, red flags have been raised concerning

OPM's role as a regulator of this insurance program and as a source of consumer education for its policyholders. One recent announcement from OPM has over 140,000 policyholders feeling extreme sticker shock. Come January, well over half of the program's policyholders will face a 25 percent increase in their monthly premium payments.

Today we hope to hear that OPM has a plan for avoiding such high increases in the future. Hindsight being 20/20, the best thing OPM can do is learn from its mistakes by ramping up consumer education and ensuring that all marketing materials accurately represent the coverage and the true costs of these policies.

The fact is that the problems we are seeing with the Federal Long Term Care Insurance Program are occurring with long-term care insurance products nationwide. If State and Federal Governments are going to promote these products, then it is their duty to be sure that consumer interests are protected, that premium increases are kept at a minimum, that insurance agents use proper marketing materials, and that complaints and appeals are addressed in a timely manner.

Senator Wyden and I have introduced legislation to bring these and other improvements to all long-term care insurance policies. We are hopeful it will be enacted this year.

We thank you all for being here today at this joint hearing, and after I finish, as I am now, I will turn to Senator Akaka for his statement, and after that, we will be turning to Senator Voinovich and to all the members on the panel for their statements. Thank you very much. Senator Akaka?

OPENING STATEMENT OF SENATOR DANIEL AKAKA

Chairman AKAKA. Thank you. Thank you very much, Chairman Kohl. I want to add my welcome to all of our witnesses and thank you so much for being here at our joint hearing of the Special Committee on Aging and the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

It is fitting that these two committees would join forces to look into this program and the long-term care insurance market. It demonstrates just how concerned we are. My Federal Workforce Subcommittee takes great interest in the management of the Federal program, which is the largest in the country. Addressing the problems with the Federal program will guide reforms of other long-term care insurance programs.

There is a great and growing need to help Americans provide dignified and appropriate long-term care for their families. At least 70 percent of people over age 85 will require some services, such as the home health services or nursing home care, at some point in their lives. Health insurance generally does not cover, as was mentioned, long-term care. Medicaid provides some support, but many senior citizens are forced to spend their savings and other assets before they qualify for coverage. Long-term care insurance fills this important gap.

Seeing this increasing need, Congress established the Federal Long Term Care Insurance Program in 2000. There are over 275,000 Federal employees and retirees enrolled in this program.

More than half of enrollees chose the compound inflation option. With this option, participants paid more initially but they were told that their benefits would automatically increase by 5 percent every year, with no increase in their premiums.

Yet, earlier this year, OPM announced premium increases of up to 25 percent for participants who selected this option. According to OPM, over 146,000 participants, including close to 2,500 in Hawaii, will have some increase in their monthly premiums. Many of the affected enrollees are angry because they feel they were misled when they joined the program. In these difficult economic times, this unexpected increase is unacceptable.

OPM has told us it followed national standards in setting the rates for the program. I am puzzled by why such a large premium increase is necessary now. I hope the witnesses will address these rate standards and how to make sure that future increases will not occur.

OPM is giving participants an option to keep their premiums steady, but their benefit amounts will increase by only 4 percent instead of 5 percent each year. Those who may be interested in the option have no way of knowing whether 4 percent increases will be enough. It is important that those paying for insurance year after year know whether the benefits will be sufficient to cover their costs when needed. I look forward to hearing from our witnesses about this issue.

This program should serve as a model for the private sector and State and local governments. Right now, it is falling short of this goal. I hope that today's hearing will help determine how to keep the program affordable and stable for our federal employee participants.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Akaka follows:]

STATEMENT OF CHAIRMAN DANIEL K. AKAKA

I want to join Chairman Kohl in welcoming our witnesses and thanking them for joining us today to discuss the Federal Long-Term Care Insurance Program. I also want to thank my friend Chairman Kohl for inviting me to conduct this hearing with him today.

That these two committees would join forces to look into the Federal Long-Term Care Insurance Program and the long-term care insurance market demonstrates just how seriously we are concerned with its well being. My Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia takes great interest in the management of the federal program, which is the largest long-term care insurance program in the country. Addressing the problems with the federal program will guide reforms of other long-term care insurance programs throughout the country.

The need for long-term care is great. In 2008, the average cost for one year of nursing home care was nearly $70,000. According to the U.S. Department of Health and Human Services, at least 70 percent of people over age 65 will require some long-term care services, such as home health services or nursing home care, at some point in their lives. Many Americans mistakenly believe that Medicare and their regular health insurance programs will pay for long-term care. They do not. Although Medicaid provides some long-term care support, it only covers eligible beneficiaries. Many senior citizens are forced to spend their savings and other assets before they qualify for coverage. Long-term care insurance fills this important gap.

Throughout the country, there is a great and growing need to help Americans provide dignified and appropriate long-term care to their families. This unmet need is a particular concern in my home state of Hawaii, because we have a severe shortage of long-term care.

Seeing the increasing need, Congress established the Federal Long Term Care Insurance Program in 2000 to provide federal workers with an option for long-term care coverage. This program, overseen by the Office of Personnel Management (OPM), began in 2003. There are currently over 275,000 federal employees and retirees enrolled in the program.

More than half of enrollees in the program chose the Automatic Compound Inflation Option. With this option, participants paid more initially but they were told—quoting from a previous version of the benefits booklet—that their "benefit will automatically increase by 5 percent compounded every year with NO corresponding increase in your premium" (emphasis in the original).

Yet, earlier this year, OPM announced premium increases of up to 25 percent for participants in the program who selected this option.

Many of the affected enrollees understood that if they chose the automatic compound inflation option, their premiums would never increase. They are angry because they feel they were misled when they joined the program. I understand that OPM acknowledges that it did not expect a future premium increase, so it did not emphasize that possibility, although some program materials did state that it was possible.

According to OPM, over 146,000 participants will have some increase in their monthly premiums, including close to 2,500 enrollees in my home state of Hawaii. In these difficult economic times, this unexpected increase is unacceptable.

The National Association of Insurance Commissioners, which is represented by one of our witnesses today, has developed standards to help ensure the stability of long-term care premiums over time. OPM has told us it used these standards in setting the rates for the federal program. I am puzzled by why such a large premium increase is necessary now. I hope the witnesses will address these rate standards and how to make sure that future increases will not occur.

OPM is giving participants an option to keep their premiums steady, but their benefit amounts will increase by only 4 percent instead of 5 percent each year. Those who may be interested in this option have no way of knowing whether 4 percent increases will be enough.

I understand that predicting the cost of long-term care into the future is an inherent problem within the long-term care insurance industry. However, it is critical that participants paying for this insurance year after year know whether the benefits will be sufficient to cover their costs when needed. I look forward to hearing from our witnesses about this issue.

The federal government is the largest employer in the country, and the federal long-term care insurance program is the largest of its kind. This program should serve as a model for the private sector and state and local governments. Right now, the program is falling short of this goal. I hope that today's hearing will help determine how to keep the program affordable and stable for our federal employee participants.

The CHAIRMAN. Thank you, Senator Akaka.

Senator Voinovich.

OPENING STATEMENT OF SENATOR GEORGE VOINOVICH

Senator VOINOVICH. Thank you, Chairman Kohl and Chairman Akaka, for holding this joint hearing.

As is the case usually when Senator Akaka and I have hearings, he does such a good job of laying out the issues that anything I say right now would be redundant. So I am going to pass on a longer statement. I am anxious to hear the witnesses.

[The prepared statement of Senator Voinovich follows:]

PREPARED STATEMENT OF SENATOR GEORGE V. VOINOVICH

Chairmen Kohl and Akaka, thank you for calling today's hearing to discuss the future of the Federal Employees Long-Term Insurance Program.

More than a decade ago, Congress began exploring solutions to the growing problem of financing the cost of long-term care. With the support of the Administration, we enacted bipartisan legislation to give federal employees, including our men and women in uniform, a tool to finance their anticipated long-term care needs.

Following a competitive bidding process, the Office of Personnel Management began marketing the long-term care insurance product to federal employees, retirees, and their families. OPM's materials encouraged the purchase of long-term care

insurance by federal employees at younger ages when premiums were lower and more affordable.

Although federal employees were offered a number of options, the materials emphasized the purchase of the automatic compound inflation option as a way to increase the daily benefit amount with no corresponding increase in premium. Employees were told "your benefits increase year after year, while your premium remains level."

Seven years after the initial enrollment period, OPM recently announced up to a twenty-five percent premium increase for a majority of enrollees, including those who selected automatic compound inflation protection. OPM subsequently modified its brochure by adding the phrase "However, premiums are not guaranteed."

The federal government set an example in 2002 by offering our nation's civil servants an important benefit to safeguard their hard-earned savings and assets. Many federal employees were led to believe they were locking in affordable premiums for life. Others viewed the availability of the plan as the government's Good Housekeeping Seal of Approval for this type of insurance product.

While OPM exceeded enrollment projections in 2002, it underestimated the number of employees who would let their coverage lapse and failed to act on the information provided during the life of the initial contract of the need for possible adjustments to the product.

Now, we have the potential for buyer's remorse and confusion, leading to lapses in coverage or a significant reduction in allowable benefits at a time when enrollees are closer to needing long-term care.

I'm anxious to hear and from OPM about the mistakes that have been made and so are the employees who believe they were misled. I also hope today's hearing will help educate current and future enrollees on the options available to them so they can make informed decisions. We owe it to the roughly quarter of a million civil servants who have enrolled and the millions of eligible enrollees to ensure the product provides affordable, comprehensive coverage that meets the insurance needs of employees beyond the next seven years.

Thank you.

The CHAIRMAN. Thank you very much, Senator Voinovich.

Senator Corker.

OPENING STATEMENT OF SENATOR BOB CORKER

Senator CORKER. Yes, Mr. Chairman, both of you. Thank you for having the hearing.

I think we are addressing a very important issue today that is not just important to Federal employees, but also people throughout the country. I think it is also interesting at this time when we are debating health care and talking about the public's role in health care, we are seeing some frailties here, if you will, that exist within OPM, much of which exist in programs like Medicare where we are not honest with people about the true cost and some of the liabilities that are created over time.

But I do say I really appreciate the authors' desire to ensure that people around this country, when they buy long-term care insurance plans, they know that it is going to be there and that it is real.

While I appreciate all the witnesses being here today, I find it hard to understand that the Director of OPM would not be here today. This is a pretty important issue and a very large problem. But notwithstanding that, I look forward to what the witnesses have to say and hopefully together we will figure out a way to deal with this in a very productive manner.

The CHAIRMAN. Thank you very much.

Senator Collins.

OPENING STATEMENT OF SENATOR SUSAN COLLINS

Senator COLLINS. Thank you, Mr. Chairman. I want to thank both chairmen for holding this important hearing this afternoon.

I have a lengthy statement that I am going to submit for the record with the chairman's permission. But I do want to make a few comments, given my long association with this program.

As at least two of the witnesses are aware—the National Association of Retired Federal Employees and Colleen Kelley from the National Treasury Employees Union know—I worked very hard 9 years ago to craft this law with Senator Grassley and Senator Barbara Mikulski. At that time, we said that the Federal Government should lead the way. The Federal Government should be offering a long-term care insurance policy that Federal employees and retirees would be encouraged to participate in. We were hoping that that would encourage more private sector employers to offer the same benefit because, as Chairman Kohl has pointed out, so many of our senior citizens have an alarming surprise when they need long-term care and they find out that the Medicare program does not cover it other than for very short stays.

So I was very excited about this new law. I was so excited about it that I signed up myself very quickly, and I will tell you, having gone through the analysis, I too was under the impression, as Mr. Joy was—when I read your comments, they were exactly my own—that by signing up at a relatively early age and by paying a higher rate, that I would avoid premium increases down the road.

Now, Mr. Chairman, clearly I can afford—I do not like it, but I can afford—the premium increase that is coming my way, but many other Federal employees and retirees who chose to participate in this program cannot. I can tell you that just as it came as a shock to Mr. Joy and to me, it is coming as a shock to the nearly 150,000 participants that all of a sudden are going to see their premiums skyrocket, in some cases as high as 25 percent, come next January.

This is a real problem, and I must say I too think that the head of OPM should be here today. We need to know how OPM got it so wrong. We need to hear from the insurers what happened because I too went through all the disclosures, and clearly the impression that was left is that if you signed up early and paid more in the early years, there would not be a hike in premiums.

So I am very glad that we are having this oversight hearing.

Let me say that OPM has pointed out that an alternative to the higher premiums is to downgrade the coverage. Again, that was not the deal that more than 100,000 Federal employees thought they were signing up for. So I do not see that as a great alternative. We know how expensive nursing home care is, and we encourage participation in this program. So this failure is certainly no model and it is no way to set an example for private sector employers to follow.

Thank you, Mr. Chairman.

[The prepared statement of Senator Collins follows:]

PREPARED STATEMENT OF SENATOR SUSAN M. COLLINS

I want to thank Senators Akaka and Voinovich and Senators Kohl and Corker for holding this important hearing this afternoon. This hearing will give us an oppor-

tunity to determine why the Office of Personnel Management got it so wrong when the agency originally calculated the premiums for the Federal Long-Term Care Insurance program.

Long-term care is the major catastrophic health expense facedby older Americans today, and these costs will only increase with the aging of the baby boomers. That is why I joined Senators Grassley and Mikulski nine years ago in introducing the legislation to make affordable long-term care insurance available to federal employees, members of the uniformed services, and civilian and military retirees. The intent of our legislation, which was signed into law, was to have the federal long-term care insurance program serve as the model for private employers whose workforce will be facing the same long-term care needs.

It is alarming that today, despite earlier assurances by OPM, more than 147,000 federal long-term care insurance enrollees will be facing soaring premium increases, in many cases as high as 25 percent, in January.

This is simply unacceptable, particularly given the fact that OPM began to recognize the real possibility of increases as early as 2003. Yet, the agency gave little warning to federal workers and retirees that there would be an increase.

To be aware of this possibility, plan participants would have had to search the fine print in their policy documents. There was no straightforward disclosure. To the contrary, the implication was that by signing up at a relatively early age and by paying a higher rate, one could avoid premium increases. OPM made absolutely no effort to educate participants. This failure is certainly no model; no way to set an example for others to follow.

An alternative offered by OPM to avoid paying these higher premiums is to downgrade coverage—substantially reducing the daily benefits provided under the plan. For example, a participant who enrolled at age 55 and stayed in the program for 40 years was supposed to receive $1,056 in daily benefits. Now, if that same participant can't afford the higher premiums and is forced to downgrade coverage to pay the same premium amount, the daily benefits would be reduced by $336. This represents a cut of nearly 33 percent in coverage. It is a decrease that no plan participant who thought they were locking in at a stable, long-term rate should have expected.

Seventy-eight million baby boomers are approaching retirement, and most are concerned about whether they have sufficient savings and retirement income to cover all of their daily needs. Few, however, have planned for the very real possibility that they may develop a chronic illness or cognitive impairment like Alzheimer's that will require long-term care. In fact today, fewer than ten percent of individuals age 50 and older have long-term care insurance.

Americans need to plan for their future long-term care needs just as they plan for their retirement or purchase life insurance to protect their families. This is particularly true given that, in 2009, the annual cost of a nursing home stay is between $66,000 and $75,000. Furthermore, the cost of care in the home can range from $19 an hour for personal unskilled care to $46 an hour for skilled care from a visiting nurse. Moreover, these costs will inevitably continue to rise, which makes planning for the future even more important.

Most Americans mistakenly believe that Medicare or their private insurance policies will cover the costs of long-term care. A 2006 survey by AARP showed that only one in five respondents between the ages of 45 and 64 knew that Medicare does not cover an extended stay in a nursing home. Unfortunately, far too many Americans discover that they do not have coverage until they are confronted with the shocking realization that, without long-term care insurance, they will either have to spend down to Medicaid eligibility levels or cover the costs themselves.

How can we expect Americans to invest money and plan for their future needs when programs like the Federal Long-Term Care Insurance Program cannot be trusted from one year to the next?

I look forward to hearing from the witnesses on how OPM can more effectively educate and assist federal employees and retirees with their long-term health care planning so that the federal program can become the model for the nation that we intended it to be.

The CHAIRMAN. Thank you, Senator Collins.

Senator Wyden.

OPENING STATEMENT OF SENATOR RON WYDEN

Senator WYDEN. Thank you, Mr. Chairman. Let me commend you for your good work and particularly you, Chairman Akaka, and Senator Voinovich, for tackling these issues in a bipartisan kind of way.

It seems to me seniors, when they get ripped off, they are not interested in politics. They are not interested in Democrats and Republicans. They are interested in results.

I will tell you, Mr. Chairman, having been involved in these issues now for almost 3 decades since I was Director of the Gray Panthers back when I had a full head of hair and rugged good looks, one of the issues that I think you look at first, with respect to these kinds of problems, is the way insurance policies are written and particularly the fact that there continually seems to be a difference between the promotional materials and then what you get in the small print.

So I have got one of the promotional materials, and in fact, I think you have got that up there, Mr. Chairman. The last sentence states in the promotional materials—and this is for the Automatic Compound Inflation Option. It states—and I quote—"Your benefits increase year after year without causing an increase in your premium." So that reflects the comment that Senator Collins just made very eloquently. People went into this thinking that their premiums were going to be flat. That was what was promoted, and it looks like they put a big effort into trying to send that impression out.

Now, what the staff has just picked up—and I commend the staff for their efforts, Mr. Chairman—is OPM noted that the fine print of the contract later is really quite different, and it states—and I will quote here—"Your premium will not change because you get older or your health changes for any reason related solely to you. We may only increase your premium if you are among a group of enrollees whose premiums is [sic] determined to be inadequate. While the group policy is in effect, OPM must approve the change." So obviously, people thought that they were going to get the level of premiums when down in the small print there was a very real prospect of people's premiums being increased if someone down the road determined that the premium level was inadequate. That was not disclosed in the promotional material.

I will tell you, Mr. Chairman, this is a very important hearing, and certainly going into this, I think that the agency, the Office of Personnel Management, ought to be changing their marketing policies so as to be straight with Federal workers with respect to what they are actually getting into when they purchase a long-term care policy.

So, Mr. Chairman, I look forward to working with you. We are going to push very hard to get your legislation into the health reform package that comes before the Senate. It deserves bipartisan support, and I look forward to working with you on it.

The CHAIRMAN. Thank you very much, Senator Wyden.

Senator LeMieux.

OPENING STATEMENT OF SENATOR GEORGE LeMIEUX

Senator LEMIEUX. Thank you, Mr. Chairman. Thank you, Chairman Akaka. I appreciate the opportunity to be here.

Representing a State that has the oldest population in the country, this is certainly a concern. Long-term care is an essential component of our citizens planning out their future. We have a large percentage of Federal employees who I know will be affected by this.

I am not going to belabor the point because we are going to go through these questions, but what Senator Wyden and Senator Collins have spoken about, Senator Corker, concerning the information that was provided to these employees is right there in that chart, and it is the last sentence that Senator Wyden just read from. "Your benefits increase year after year without causing an increase in your premium."

The chart shows two options. So we gave our Federal employees the chance to do the right thing, which was to buy at a higher price now and have a locked-in premium over time. The chart shows the flat line going forward as opposed to the steep increase on the left side. This looks like the typical example of the large print giveth and the small print taketh away. I have just been looking at the document that Senator Wyden referenced where there can be this other amorphous way where your premium can go up. Well, you know what? This is what the chart is that the people relied upon. They do not read the small print. They read the big print, and they look at the graph.

They should not have a 25 percent increase. We should not let them have the increase. If we got it wrong in the Government, they should not have to pay more. It is not their fault. They did the right thing.

So I look forward to hearing from the folks here on the panel, explaining why the people, the employees, who went by the language that was given to them, are going to have to suffer for the mistakes that were made by the Government.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. LeMieux.

Senator Kirk.

OPENING STATEMENT OF SENATOR PAUL KIRK

Senator KIRK. Thank you, Mr. Chairman, Chairman Akaka.

Thank you very much for convening this hearing.

This is basically, in my view, a question of fundamental fairness. There would be tens of thousands of Federal workers and retirees who will be hit with a major increase here, believing that that would not happen. Two thousand of those are from my State of Massachusetts, and we are living in a time when budgets are squeezed. People on fixed income measure every dollar. They plan ahead. They plan prudently so that they balance what their needs are, and this is a situation, as has been mentioned, where people relied on the written word and the spoken word and find that the group that pays a higher premium today to protect against inflation tomorrow are the very people who now are going to pay the harshest price.

So I associate with those who are really not only disappointed but outraged at what are misleading statements about these policies and what their future portend for the folks on retirement or on fixed income who are looking ahead.

I look forward to the testimony of our witnesses and the questions from this panel. I thank you for the opportunity to be here, Mr. Chairman.

[The prepared statement of Senator Kirk follows:]

PREPARED STATEMENT OF SENATOR PAUL KIRK

Chairman Kohl and Chairman Akaka, I commend you both for holding today's hearing. It is extraordinarily important to the tens of thousands of federal employees enrolled in the Long Term Care Insurance program who face a sharp hike in their premiums next year. We need to get to the bottom of this issue.

In coming days, nearly 2,000 federal employees and retirees in Massachusetts will learn that the choice they made to enroll in this program- and join the group that pays higher premiums today to protect against inflation tomorrow- will cost them even more, despite assurances by OPM and the insurer that enrollees wouldn't face premium increases.

For persons on fixed incomes, this increase will mean an especially difficult decision- either accept the rate increase by cutting elsewhere in their family budget, or abandon the investment they've made in this program over the years. The news is certainly not a good advertisement for their Long Term Care Insurance, which was supposed to make such care affordable if they have severe health needs in retirement.

I commend Chairman Kohl for sponsorship of the "Confidence in Long-Term Care Insurance Act," which will give consumers the support they need to navigate the jungle of different plans with varying benefit levels and conditions. It will also give greater oversight to the states of insurers' marketing materials.

Long Term Care Insurance is obviously an essential part of bringing health costs under control. As many as two-thirds of Americans who are 65 today will spend some time at home in need of long-term care services in the years ahead. These expenses can quickly exhaust a family's savings, and drive them into poverty and onto Medicaid.

Senator Kennedy was the chief sponsor of pending legislation, the CLASS Act, which will establish an alternative to Medicaid and make Long Term Care more affordable. It would be a voluntary program paid for by payroll withholding, and I'm optimistic that it will be enacted this year.

In the meantime, for federal employees and retirees facing this surprise rate increase, it is clear that reform cannot wait. Again, I commend our colleagues for holding this hearing, and I look forward to the testimony of our witnesses.

The CHAIRMAN. Thank you very much, Senator Kirk.

Senator Burris.

OPENING STATEMENT OF SENATOR ROLAND BURRIS

Senator BURRIS. Thank you, Mr. Chairman, Chairman Kohl, Chairman Akaka.

I would like my opening statement to be placed in the record. I will not make it.

But I just want to set the tone in reference to what my colleagues have said. I am not so sure that I want to see the employees pay higher premiums. I want to see the Office of Personnel Management and John Hancock figure out a way how they can follow what they told these persons that they would not see increases in premiums. That is what I want to hear. If we do not hear it, I am going to try my best to get the Senate to come up with something that will not put this burden on those policyholders. This is not their fault. They were misled. OPM and evidently John Hancock, you all did not communicate. Evidently OPM cannot read the fine language that is in a contract, and they misled the individuals.

I do not want to see a senior citizen, a person who holds a long-term policy, have to pay one dime under this ACI program. I do not want to see them to have to pay one dime. You all have to eat it and still give them the coverage. Take it out of the dividends that Hancock would pay. I do not want to see one policyholder pay an extra increase in their premiums. You are already trying to lower their coverage. It should be restored to its original contractual agreement in your brochures that you put out to the public.

So OPM, you and Hancock get together and figure out how you are going to help these policyholders. If not, we are going to find out how Congress can deal with you all for such a mistake that you are going to put a burden on these policyholders of this magnitude. It is unconscionable. It is unacceptable, and I do not see how we can allow this to take place.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Burris.

We will turn now to our witnesses. Our first witness today will be Dan Green, the Deputy Associate Director of Employee Support and Family Policy at the Office of Personnel Management. Mr. Green is responsible for developing Federal employee benefit policy relating to the multi-billion dollar retirement and insurance programs administered by OPM and for promoting important employee and family support programs.

Our next witness today will be Margaret Baptiste, who has been an active member of the National Association of Retired Federal Employees. Having served the organization in a number of capacities, she was reelected as the organizational National President in 2008.

Next we will be hearing from Colleen Kelley, National President of the National Treasury Employees Union. As the organization's top elected official, she is an advocate for fair treatment of employees across the Federal Government.

Fourth, we will be hearing from Chester Joy. Mr. Joy worked as a Senior Natural Resources Analyst with the Government Accountability Office for over 30 years. He is a nationally recognized expert on wildland fire and ecosystem management and has lectured on these topics across the country. He is also a policyholder with the Federal Long Term Care Insurance Program.

Our next witness will be Mary Beth Senkewicz, the Deputy Commissioner for Life and Health with Florida's Office of Insurance Regulation. Ms. Senkewicz formerly served as Senior Health Policy Counsel and Legislative Advisor at the National Association of Insurance Commissioners for over 11 years. In April, she appeared before the Aging Committee to testify about life settlement issues, and we welcome her back.

Then we will be hearing from Marianne Harrison, who is the Executive Vice President and General Manager of Long-Term Care Insurance for the John Hancock Life Insurance Company. In this role, she is responsible for all facets of the long-term care insurance business for John Hancock.

We welcome you all here today, and we will start with you, Mr. Green.

STATEMENT OF DANIEL GREEN, DEPUTY ASSOCIATE DIRECTOR, EMPLOYEE SUPPORT AND FAMILY POLICY, OFFICE OF PERSONNEL MANAGEMENT, WASHINGTON, DC

Mr. GREEN. Chairman Kohl, Ranking Member Corker, Chairman Akaka, Ranking Member Voinovich, and members of the committee and subcommittee, thank you for the opportunity to testify today on behalf of OPM Director John Berry about the Federal Long Term Care Insurance Program.

I am not only an official at the Office of Personnel Management. I am also an enrollee in the Long Term Care Insurance Program, as is my wife. We are both subject to the upcoming premium increase. So are many of the OPM employees who work on the long-term care insurance contract. None of us are pleased about the rate increase either in our professional or personal capacities. I am here today to address this issue and to talk about the changes coming this year and next.

This program is designed to help protect enrollees against the high costs of long-term care. Enrollees pay the full premiums for insurance coverage, and all applications for coverage are underwritten with either abbreviated or full underwriting requirements. The Long Term Care Insurance Program offers flexible benefit options to meet the diverse needs of the Federal family.

The established framework provides for a 7-year contract. The initial contract was awarded to a consortium arrangement between Metropolitan Life and John Hancock Life & Health Insurance Company. The initial contract term expired this year, and OPM has selected John Hancock as the insurer for the second contract term, which began October 1. The new contract includes new benefit options with increased home health care reimbursement, new benefit periods, higher daily benefit amounts, increased payment limits on informal care provided by family members, and new premium rates.

After a careful and considered evaluation of the program, we determined premium increases would be necessary for most current enrollees beginning January 2010. The enrollees affected by the increase are those who have the Automatic Compound Inflation Option, or ACI. Long-term care premiums are age-based, and the amount of the premium increase will depend on the ages of the enrollees when they first purchased coverage. Premiums will increase for ACI enrollees who were under age 70 when they purchased the coverage and who choose to keep the same coverage.

Of the almost 225,000 total enrollees, about 144,000 have the ACI option and will be subject to the premium increase. Of those, about 133,000 enrollees will see the maximum 25 percent increase in premiums. The remaining enrollees will receive somewhat lower increases depending on their ages at purchase. While we are not pleased with these premium increases, they will be the first since the program began 7 years ago and are consistent with increases in other public sector long-term care insurance programs.

For enrollees who selected the Future Purchase Option, there will be no premium increase. Under this option, increases in the cost of living are included in a rate change that occurs every other year. By contrast, enrollees with the ACI option are eligible for a 5 percent compounded increase in benefits each year. The pre-

miums for this option were intended to be structured to prefund their future benefit increases. However, that means any changes in the underlying assumptions about those premium levels have a direct effect on the amount of funds needed in advance to support the future benefits.

Without this adjustment, the long-term care program faces a projected shortfall in funding for the enrollees in the ACI option. The actual and projected program experience differs from the assumptions used when the original premiums were established 7 years ago. Projections are sensitive to certain assumptions about future program experience, mostly enrollee persistency and investment return, and the original estimates are now deemed inadequate. In order for sufficient funds will be available to pay benefits to enrollees in the future, we believe it would be irresponsible not to increase premiums at this time.

We recently announced a Special Decision Period for current enrollees from October 1 to December 14. Enrollees will receive a personalized options letter that will outline their insurance choices during this period. One of the options for affected enrollees will allow them to keep their premiums approximately the same as they now pay by making an adjustment to their long-term care insurance benefits. For example, they can change their current 5 percent ACI rate to 4 percent and keep their premiums about the same. Making this change would not decrease current benefit levels, but would cause the daily benefit amount to increase more slowly, by 4 percent per year rather than 5 percent. Other options open to these enrollees include moving to the plan under our new contract with John Hancock, which has new benefits, but at new rates.

Thank you again for the opportunity to testify before you today. I will be glad to answer any questions.

[The prepared statement of Mr. Green follows:]

STATEMENT OF
DANIEL GREEN
DEPUTY ASSOCIATE DIRECTOR
FOR EMPLOYEE AND FAMILY SUPPORT POLICY
U.S. OFFICE OF PERSONNEL MANAGEMENT

before a joint hearing of 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

on

THE FEDERAL EMPLOYEES LONG TERM CARE INSURANCE PROGRAM

October 14, 2009

Chairman Kohl, Ranking Member Corker, Chairman Akaka, Ranking Member Voinovich, and Members of the Committee and Subcommittee:

Thank you for the opportunity to testify today, on behalf of OPM Director John Berry, about the Federal Long Term Care Insurance Program and changes coming this year and next. This program is designed to help protect enrollees against the high costs of long term care. Currently there are almost 225,000 enrollees. Most Federal and Postal Service employees and retirees, active and retired members of the uniformed services, and qualified relatives are eligible to apply for the insurance coverage. Enrollees pay the full premiums for insurance coverage and all applications for coverage are underwritten, with either abbreviated or full underwriting requirements. The long term care program offers flexible benefit options to meet the diverse needs of the Federal family. Covered benefits include at-home formal and informal caregiver services, adult day care, assisted living facility care, hospice care and nursing home care.

As background, the statutory framework established by Public Law 106-265 provides for a seven-year contract. The initial contract was awarded to a consortium arrangement between Metropolitan Life and John Hancock Life & Health Insurance Company. The initial contract term expired this year, and OPM has selected John Hancock as the insurer for the second contract term, which began October 1. The new contract includes new

benefit options with increased home health care reimbursement, new benefit periods, higher daily benefit amounts, increased payment limits on informal care provided by family members, and new premium rates.

OPM is responsible for managing the insurance carrier and overseeing the financial health of the program. John Hancock will be responsible for program administration, managing the investment of premiums, and providing long term care benefits to enrollees. John Hancock uses an independent subsidiary, Long Term Care Partners, to manage the insurance application process and claims administration and also to provide marketing, education, and communications for enrollees and prospective enrollees.

After a careful and considered evaluation of the program, we determined premium increases would be necessary for most current enrollees, beginning January 1, 2010. The enrollees affected by the increase are those who have the Automatic Compound Inflation Option, or ACI. Long term care premiums are age-based and the amount of the premium increase will depend on the ages of the enrollees when they first purchased coverage. Premiums will increase for ACI enrollees who were under age 70 when they purchased the coverage and who choose to keep the same coverage. These enrollees will see a premium increase ranging from 5 percent up to 25 percent. There will be no premium increase for enrollees who purchased this type of coverage at age 70 or above.

Of the almost 225,000 total enrollees, about 144,000 have the ACI option and will be subject to the premium increase. Of those, about 133,000 enrollees will see the maximum 25 percent increase in premiums. The remaining enrollees will receive somewhat lower increases – between 20 percent and 5 percent – depending on their ages at purchase. While we are not pleased with these premium increases, they will be the first since the program began seven years ago, and are consistent with increases in other public sector long term care insurance programs since 2002.

For enrollees who selected the Future Purchase Option, there will be no premium increase. Under this option, increases in the cost of living are included in a rate change that occurs every other year. By contrast, enrollees with the ACI option are eligible for a 5 percent compounded increase in benefits each year. The premiums for this option were intended to be structured to pre-fund their future benefit increases. However, that means any changes in underlying assumptions about those premium levels have a direct effect on the amount of funds needed in advance to support the future benefits.

Without this adjustment, the long term care program faces a projected shortfall in funding for the enrollees with the ACI option. The actual and projected program experience differs from the assumptions used when the original premiums were established seven years ago. Projections are sensitive to certain assumptions about future program experience – mostly enrollee persistency (the number of people who enroll and continue to remain insured) and investment return – and the original estimates now appear to have been inadequate.

While we conducted our own actuarial analysis and reviewed the financial projections by John Hancock, we also obtained an independent actuarial consultant to review the proposed premium increases. The consultant confirmed the premium increases would be necessary. So that sufficient funds will be available to pay benefits to enrollees in the future, we believe it would be irresponsible not to increase premiums at this time.

We recently announced a Special Decision Period for current enrollees from October 1 to December 14, 2009. Enrollees will receive a personalized options letter that will outline their insurance choices during this period. One of the options for affected enrollees will allow them to keep their premiums approximately the same as they pay now by making an adjustment to their long term care insurance benefits. For example, they can change their current 5 percent ACI rate to 4 percent and keep their premiums about the same. Making this change would not decrease current benefit levels, but would cause the daily benefit amount to increase more slowly—by 4 percent per year rather than 5 percent. Other options open to these enrollees include moving to the plan under our new contract with John Hancock, which has new benefits, but at the new rates.

The new plan design includes enhancements to several benefits and elimination of a few less popular features. For instance, the new minimum daily benefit amount will be $100, compared to $50 under the old plan. In addition, enrollees can now elect up to $450 as their daily benefit amount; under the old plan it was capped at $300 per day. Enrollees can elect a two-year benefit period under the new plan. Previously their choices were a three-year, five-year, or unlimited benefit period. Coverage of informal home health care provided by family members will now be available up to 100 percent of the daily benefit amount for up to 500 days. Previously it was covered at 75 percent for up to 365 days. One feature under the old plan, which was not particularly popular and did not have many enrollees, was a facilities-only benefit, which will not be available in the new plan. Premiums for the new plan will be somewhat higher due to the benefit enhancements. The deadline for making elections under the Special Decision Period elections is December 14, 2009, and changes will take effect January 1, 2010.

While the Special Decision Period is for current enrollees only, we plan to hold an Open Season for all eligible employees and retirees late next year. In addition, newly eligible individuals, such as new Federal employees, are now able to apply for the new long term care plan. Beginning October 1, we are not accepting new employee applications for the old benefit plan.

Now, I would like to respond to your request for our view of the "Confidence in Long-Term Care Insurance Act" introduced by Senator Kohl earlier this year. We note it has received support from a wide variety of consumer groups and companies as well as the National Association of Insurance Commissioners (NAIC). The bill takes steps to provide additional consumer information and protection, which fits well with our own approach to ensuring consumers have the information they need to make educated choices. We would be pleased to provide the technical assistance of our staff if requested.

Thank you again for the opportunity to testify before you today. I will be glad to answer any questions.

The CHAIRMAN. Thank you, Mr. Green.
Ms. Baptiste.

STATEMENT OF MARGARET L. BAPTISTE, PRESIDENT, NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES, ALEXANDRIA, VA

Ms. BAPTISTE. Thank you. Chairman Kohl, Chairman Akaka, and members of the committees, I am Margaret Baptiste, President of the National Active and Retired Federal Employees Association.

We are proud of the leading role NARFE played in creating the Federal Long Term Care Insurance Program, and those efforts make even deeper our disappointment with the 25 percent premium increase announced for thousands of enrollees.

Before FLTCIP's creation, we took a dim view of long-term care insurance. It was very expensive, offered limited coverage, and premiums often increased. But the group insurance industry asserted that the marketplace had all changed and that their product had matured. Indeed, when the program was launched, OPM and Long Term Care Partners said that a rate hike would be unlikely because in setting premiums, they used the conservative assumptions of the National Association of Insurance Commissioners about benefit claims, premium and investment income, and lapse rates. In fact, consumers 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 history, we are concerned that early warning signs within the program were not heeded. Indeed, GAO's 2006 report on the program cited trouble beginning in 2003 regarding lower-than-expected lapse rates and low interest rates.

If these problems started in 2003, we have to ask when did low lapse 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?

While OPM used the 2000 NAIC model to set premiums, such standards are meant to be a floor. 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. But this year, the very people who prudently selected the Automatic Compound Inflation Option have been singled out to shoulder a 25 percent premium increase or trade it away for reduced coverage.

I do not have to imagine their outrage because I hear their anger every day from our members. Many of them have invested tens of thousands of dollars in their policies and are confronted with choices that go from bad to worse.

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 financial planners suggested to certain clients that they buy a benefit amount in excess of current costs as an alternative to the ACI's hedge against inflation. In fact, those who took this advice are not facing a rate hike.

We think its 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 during the Special Decision Period. The materials we sent to enrollees must be clear and easy to understand if we are to make informed decisions. 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.

To start, we must restore confidence in our program.

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 industry and further consolidation could make matters worse in 2016 when the contract is re-bid. Consolidation means there is less competitive pressure on carriers to offer the best possible product. For that reason, now may be the time for Congress to consider whether the FLTCIP should self-insure.

If the committee finds that OPM and Long Term Care Partners could have mitigated the premium increase by acting sooner, then more oversight is needed.

With regard to the broader industry, we commend you, Chairman Kohl, for introducing Senate 1177. Your legislation would enhance consumer protections, including more stringent regulatory authority to require plans, including the FLTCIP, to price their product appropriately. We commend you for your interest in restoring the Federal Long Term Care Insurance Program's stability.

Thank you for inviting us to testify.

[The prepared statement of Ms. Baptiste follows:]

STATEMENT BY
MARGARET L. BAPTISTE
PRESIDENT
NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES ASSOCIATION

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.

The CHAIRMAN. Thank you very much.
Ms. Kelley.

STATEMENT OF COLLEEN KELLEY, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, WASHINGTON, DC

Ms. KELLEY. Thank you very much, Chairmen Kohl and Akaka and committee members for this hearing.

Federal employees and retirees face the same issues as others in the workforce. They want an opportunity to make financially sound decisions and planning for their later years in life. Many have witnessed the challenges facing aging parents and grandparents and the enormous emotional and financial drain that can occur, and they want to be prepared.

As Senator Kohl has noted, NTEU supported the creation of the Federal Long Term Care Insurance Program and we worked with Congress on a bipartisan basis and with our friends in the Federal retiree community to help enact it. Those who purchased policies, many in the baby boomer generation who witnessed the economic challenges of the previous generation, made smart decisions to plan ahead for their long-term care needs, and they signed up. As we know, those who paid more for policies with the Automatic Compound Inflation protection option were told that their premiums would not increase.

I am submitting, along with my testimony, four different pieces of literature from 2002 that mischaracterized OPM's program. Two of these brochures have headers on them that say, "Act Smart" and "Be Smart." That is what these enrollees thought they were doing. These brochures describe the two different inflation protection options, the Future Purchase Option and the ACI. These brochures make clear there will be no corresponding increase in the premium of ACI, and it says no in capital letters in both of these brochures.

Of course, you have the graphs added it to, which people relied on, and these materials all came from OPM and its partners, John Hancock and Met Life Insurance Companies.

NTEU was as surprised as all of you when 7 years later OPM announced a future premium hike of 25 percent for those very people who bought ACI. It is not an exaggeration to say that Federal employees were stunned. After all, these employees intentionally chose the ACI option because it prefunded future benefit increases in a sensible and a forward-looking way. While it was more expensive, it was worth it because it would protect against inflation. ACI was considered the wise choice by many, including savvy financial planners. Enrollees, as we have heard, spent tens of thousands of dollars on it, and now they are all 7 years older and they do not want to lose that money.

It should come as no surprise that many NTEU members feel misled and mistreated by their Government. I urge your committees to find a way to correct these wrongs, and NTEU pledges to work with you on that.

Now, in a matter of weeks, OPM will mail personal packets of information presenting options for enrollees. I understand the choices that the enrollees will have when they receive those packages. But OPM's website says that the Special Decision Period is now open, October 1st through December 14th. But the packages

have not even been mailed yet. I believe enrollees need more time to study their options. NTEU supports extending the early decision period beyond December 14th for current enrollees. This would give enrollees additional time to study and to absorb their various options.

OPM should also examine the current relationship between claims and assumptions that were used in the program to determine premiums. In its December 2006 report, GAO reported that OPM and its long-term partners experienced a less-than-expected number of claims. GAO recommended twice that OPM analyze the claims experience and assumptions affecting premiums. I am not aware if that analysis has been done by OPM, and NTEU would like to know that. OPM needs to reexamine this in terms of future premium projections.

NTEU does support additional consumer protections and transparency and better marketing standards, and we do support your bill, Chairman Kohl, S. 1177, the Confidence in Long-Term Care Insurance Act, to ensure that plans like OPM's will provide consumers with a better understanding of their policy's coverage and cost.

Finally, if I leave the committees with one message today, it is this: OPM can never let this happen again. The Federal Long Term Care Insurance Program needs to remain viable and it should be a model in this new field of long-term care as it was originally envisioned.

The Government's long-term care insurance program has experienced a very rocky beginning. Hundreds of thousands of Federal families deserve better treatment. OPM and its partner, John Hancock, must get it right this time and never let a premium fiasco like this occur again.

I would be glad to answer any questions you have.

Thank you.

[The prepared statement of Ms. Kelley follows:]

NTEU
The National Treasury Employees Union

Colleen M. Kelley
National President

National Treasury Employees Union

Before the

Senate Special Committee on Aging

and the

Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia

U.S. Senate

Sticker Shock: What's the True Cost of Federal Long-Term Care Insurance?

October 14, 2009

Chairman Kohl, Chairman Akaka, Ranking members Corker and Voinovich, and members of the committees, I appreciate the opportunity to appear before these two distinguished committees and to share the perspective of federal employees and retirees on the important subject of long-term care insurance plans. The National Treasury Employees Union (NTEU) represents more than 150,000 federal employees and retirees from over 31 different agencies and departments throughout the government.

Federal employees and retirees face the same issues that confront others in the workforce and the general public – they want an opportunity to make prudent and financially sound decisions when it comes to planning for their later years of life. This is particularly true in areas concerning health care needs and long term living arrangements. Like their friends and colleagues in the private sector, federal employees have witnessed the challenges facing aging parents and grandparents, and the enormous emotional and financial drain that can occur. All too often, federal families struggle as they attempt to care for their aging relatives who are unprepared either because long-term care insurance was largely not available in their generation, or not financially viable, or for other reasons. According to the Congressional Research Service (CRS) the average cost of care in an Assisted Living facility is $33,900 this year. Nursing home care in 2009 averages $66,886 a year, or $74,208 for a private room. It is not uncommon for uninsured people, therefore, to deplete their entire savings in the last few years of life.

NTEU supported and was active in passing the legislation that began the Federal Long Term Care Insurance Program (FLTCIP). *(PL 106-265)* At that time, we worked with Congress on a bipartisan basis, and with our friends in the federal retiree community to help push the much needed legislation.

After enactment, FLTCIP was marketed by OPM and its Long Term Care partners—John Hancock Life Insurance Company and Metropolitan Life Insurance Company—in February 2002. The program began accepting enrollment applications on March 25, 2002. Today, the program has approximately 225,000 enrollees, representing the largest long-term care insurance tax qualified program in the country. Those who purchased policies, many of whom are in the baby boomer generation, and who witnessed the economic challenges facing the previous generation, made wise decisions to plan ahead for their long term needs when they enrolled.

The original 7 year contract with John Hancock Life and Health and Metropolitan Life expired in April of this year and after a competitive bidding process, OPM awarded the new contract to John Hancock as the sole insurer. The Long Term Care Partners (LTCP), now comprised solely of John Hancock, remains the administrator. However, when the new contract was announced, OPM also announced a large premium increase for those who purchased policies with the Automatic Compound Inflation Option (ACIO) feature. You can imagine NTEU's surprise when OPM said that those consumers who purchased insurance to protect their benefits against inflation, would realize a 25 percent increase in premiums if they were age 65 or under when they bought their policies. Those who were ages 66 through age 69 would receive increases scaled down in increments of 5 percent. At age 66 the increase would be 20 percent; at age 67 it would be 15 percent; at age 68 it would be 10 percent and at age 69, it would be 5 percent. For those who bought insurance at age 70 premiums would not go up.

It is not an exaggeration to say our federal families were stunned. After all, these employees and retirees age 65 and under intentionally chose the ACI option because it pre-funded future benefit increases in a sensible and forward looking way. This was supposed to be a protection against inflation and, while it was more expensive, it would be a comfort to federal

families in the future by offering a benefit that hundreds of thousands of today's seniors did not have a chance to get. As many of our members have reminded me, the ACI option was considered the wise choice by many, including by savvy financial planners.

To its credit, OPM has briefed NTEU and others concerning the shortcomings of the actuarial predictions and the complexities of calculating premiums to cover benefits tied to the skyrocketing costs associated with medical and long term care. The miscalculations made in these areas are extremely disturbing, but even more disturbing was the quality of advertising – or lack thereof – for the ACI option. I am submitting, along with my testimony for the committees to see, four different pieces of literature from 2002, that mischaracterized the program. These were sent to me by NTEU members.

Two are brochures with headers of "Act Smart" and "Be Smart." They describe the two different inflation protection options, the Future Purchase Option (FPO) and the Automatic Compound Inflation Option (ACIO) I described earlier. Let me quote from the inside page of the first under the ACI Option description. The brochure states, "With this option, your Daily Benefit Amount and the remaining amount of your Maximum Lifetime Benefit will automatically increase by 5% compounded every year with **NO corresponding increase in your premium.**" The "NO" is in caps. The second brochure states, "The Automatic Compound Inflation Option automatically increases your daily benefit amount by 5% compounded every year with **NO corresponding increase in your premium.**"

The two other products use similar language. On page 11 of the *Federal Long Term Care Insurance Program (Federal Program)'s Outline of Coverage,* a caption under the graph projecting the first thirty years of premiums and benefits, says, "As you can see from the first graph, **your ACI premium does not increase as the benefit increases.**" On page 4 of the

"Companion Guide to the NAIC Shopper's Guide to Long-Term Care Insurance" a similar claim is made. It says, "The Federal Program offers two types of inflation protection. One is an Automatic Compound Inflation option, under which your benefits increase by 5% compounded annually, **with no corresponding increase in premium."**

All of these four products –and there are more—were publications put out by OPM, John Hancock and MetLife Insurance Companies. When NTEU asked for an explanation of how these premiums could now rise, we were told that, while the program was not advertised well, the actual long-term care policies themselves did not guarantee against a premium increase under the ACI option. In other words, from the consumers' point of view, it was necessary to delve into the actual policy and read the fine print, not rely on the promotional materials put out in 2002 by OPM and their insurance partners, John Hancock and MetLife.

We are now faced with the dilemma of a group of consumers who at first blush did the right thing. They prepared for their future; they bought policies that, while expensive, were sensible and forward looking. Some invested tens of thousands of dollars and are now seven years older, and cannot afford to lose that money. Yet they are asked to swallow a 25 percent premium increase, or to redesign, and possibly give up, some benefits and inflation protection to keep the same premiums. NTEU thinks Congress and OPM should find ways to correct this wrong.

It should come as no surprise that many NTEU members feel let down by their government. Some regret they bought policies in the first place. But most want assurances that the long term care insurance program will continue in the future – and will be reformed. They want a straight story from their government, not shallow promises and hefty hikes in premiums.

OPM needs to take a look at what specific options are available for enrollees. I

understand in a matter of weeks participants will begin receiving their personal packets of information that will enable them to keep their current policies, or change benefits, or take a percentage less in inflation protection to keep their premiums the same. OPM's website says the Special Decision Period is now open – October 1 through December 14 – for benefit changes, yet packets have not even been sent. I believe enrollees need more time to study their options, and NTEU supports extending the Early Decision Period beyond December 14th for current enrollees. Participants need time to study and absorb their various options.

OPM should also examine the current relationship between claims and assumptions that are used in the federal long term program to determine premiums. In its December 2006 report, the Government Accountability Office (GAO) *(GAO-07-202)* reported that OPM and its Long Term Partners, LLP experienced a less than expected number of claims in the program. GAO recommended on two occasions that OPM analyze the claims experience and assumptions affecting premiums. Has an analysis been done? If claims, as GAO found, are lower than generally expected for a program in this period, perhaps OPM needs to take another look at future premium projections.

The next few weeks will be busy ones for OPM and federal employees and retirees who have long-term care policies. Enrollees need to examine their plans once they receive the personal packets. While I understand there are some new, additional good benefits including higher daily benefits and more coverage for home health care and assisted living, these options and costs need to be calculated carefully by our members. To its credit, OPM has sought, in good faith, to provide additional options and choice for enrollees to lessen the scope of premium increases. Nonetheless, arriving at these so-called "Landing Spots" will not be easy.

For the future, Congress should examine ways in which it can help. There is an overriding need for better consumer protections, transparency, and more rate stability. NTEU supports your bill, Chairman Kohl, the Confidence in Long-Term Care Insurance Act of 2009, S. 1177, to ensure that tax qualified plans such as those sold under the Federal Long-Term Care Insurance Program will help provide consumers with a better understanding of the coverage and cost of their plans in the future. I think your measure will go a long way towards updating the NAIC standards and formalizing a process that OPM would be required to follow to help ensure transparency, and improved consumer information and protections, and most importantly, address rate stability. While OPM indicates it is complying with current NAIC standards, it should be noted these are minimum standards and OPM could, on its own, offer additional consumer protections and make its process more transparent. Standards need to be much stronger.

I am not here to say the scope of the long-term care program should be curtailed or weakened. What we cannot do is reduce the ability of the program to pay claims for those currently eligible, and for the future. The federal long term care insurance program needs to remain a viable, solid government insurance plan. But it must become the model in this new field of long term care insurance as it was originally envisioned.

But if I leave the committees with one message today, it is this: The new OPM can never let this happen again. It must be vigilant in the design of these policies. It needs to take a hard look at the program, and ensure that past mistakes—including past marketing campaigns—not be repeated. It must actively oversee actuarial predictions. It must be honest and forthright with enrollees. And OPM must be accountable to Congress.

Long-term care insurance is a relatively new field that has been available for only 7 years for federal families. Its beginning has been rocky. Hundreds of thousands of federal families deserve better treatment from their government. OPM and its partner John Hancock must get it right this time, and never let a premium fiasco like this ever occur again.

The CHAIRMAN. Thank you very much, Ms. Kelley.
Mr. Joy.

STATEMENT OF CHESTER JOY, INDIVIDUAL FEDERAL LONG-TERM CARE POLICYHOLDER, WASHINGTON, DC

Mr. JOY. Good afternoon, Chairmen Kohl and Akaka and Ranking Members Corker and Voinovich and other distinguished committee members. I thank you for inviting me here today to discuss the OPM Federal Long Term Care Insurance Program.

I will summarize my statement submitted for the record.

In 2002, before retiring from GAO, I, together with my wife, purchased Automatic Compound Inflation, or the ACI, policies under this program. We have paid over $60,000 in premiums since then, much more than we would have otherwise, because we believed this policy was special. We were told premiums would be locked in at a flat rate, while benefits increased at 5 percent. Every other policyholder we have talked to understood and believed the same thing. Probably the only exception is at the end of the table here.

Here is why we believed this. On the application form, you checked the box indicating your choice between this policy and the Future Purchase Option one that did not do that. Above the box, it said, "If you have any questions regarding Inflation Protection, please refer to your Inflation Protection Options Brochure in your kit." That is this one here, and that is shown up there. So that is the last thing you saw.

That is the text of it right up there, and as you can see, it says if you buy the ACI Option, you will pay now more but lock in a flat rate. Three lines down it does have the "no increase" language.

OPM now contends—and Senator Wyden, Senator LeMieux, you pointed out about small print. Senator LeMieux, the point is this. We did not miss the small print because what you have not heard today is this. We have another document that we were given that you are supposed to be given, and it is called an outline of coverage. In that document, the very language that OPM is citing is contained. But it is only referred to with respect to the Future Purchase Option, the other option, not this option. That is very crucial to understand. It was probably a mistake on the part of the insurance companies, but that does not matter. It was not connected to this.

Now, let me put this in a bit larger perspective that is even more troublesome. We are not only shocked to learn that this happened because we are going to get a renege on this, but we only found out now that this was a 7-year contract. That document shows a 30-year timeline, and the language below refers to a 30-year timeline. We had no idea there was going to be a renegotiation.

So what this means is we are placed in a terrible situation. We either pay a higher premium now and possibly every new contract, which the Director of OPM said will happen on the Kojo Nnamdi NPR interview program—it will happen every time—or we accept the lesser amount and just hope that coverage does not erode every time. Or we go out in the private market. Being 7 years older, that means a higher rate. Maybe some people will not be able to get it at all. Of course, all the premiums that we paid would be gone.

This is a very crucial decision for a lot of us, and it is going to affect our loved ones too. The problem is that 5½ months after OPM made this agreement, we still have not heard exactly what our options are going to be. We are not going to get those letters until about the end of this month/beginning of the next month. That is going to give us 6 weeks. Every single financial expert in this area has told us you cannot go through at our age underwriting and comparing. How can we compare if we do not have something yet to compare to? So the result is we are trapped, and that is wrong. So I heartily support the notion of extending the time, as Ms. Kelley said.

Finally, OPM has repeatedly said that this program complied with the National Association of Insurance Commissioners' guidelines for long-term care insurance. Every place you read it. But in fact, they provided us with their companion guide to the shoppers guide, the NAIC guidelines. What they left out in their companion guide is the fact that there is a warning in there in shopping guide by NAIC that says words like "flat rate," words like "no increase" and "level" cannot be used. So this did not comply. It further states that many States have outlawed that kind of language. State insurance commissioners have, but OPM allowed it.

In summary, Chairman Kohl, Chairman Akaka, all ACI policyholders we have spoken to agree we would not have bought this policy, we would not have spent these tens of thousands of dollars if we had known that OPM's promise of pay more now but lock in a flat rate was not true. But now that we have, we are kind of stuck in a tough place.

What is particularly galling to us and me personally is as current and former Federal employees, what tipped the balance in our decision about this was OPM was behind it. That is what tipped it. We could trust that brand. I think that is important going forward to think about as you deal with this.

I am not saying that OPM and the insurers were acting in bad faith, but by the same token, OPM and the insurers cannot in good faith contend that the documents you have seen today—and I want to emphasize one of those documents, which I included, and that is that one, that Outline of Coverage document, which I referred to in my prepared statement, that that document says that that provision they are citing relates to the ACI option because clearly, when you read it, it only refers to the other. You are only referred to that phrase when you get to the FPO section. So the documents clearly show they did promise no increase, and I do not think they can, in good faith, contend otherwise.

The proposed fix of offering us the same amount for lesser coverage is not really equitable. What is the fairness or accountability in that?

My prepared statement does describe some remedies that I consider acceptable, including one very closely related, Chairman Kohl, to your proposed legislation which if we had passed in 2002, none of us would be spending this afternoon like this.

Ladies and gentlemen, that concludes my statement.

[The prepared statement of Mr. Joy follows:]

Statement of Chester M. Joy
On the Federal Long-Term Care Insurance Program

Testimony before the Select Committee on Aging and the Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, United States Senate, Washington, DC
October 14, 2009

Good afternoon, Chairmen Kohl and Akaka, Ranking Members Corker and Voinovich, and other distinguished committee members. Thank you for inviting me here today to discuss the Office of Personnel Management's (OPM's) Federal Long Term Care Insurance program.

In 2002, before retiring from the Government Accountability Office, I, together with my wife, purchased Automatic Compound Inflation (or ACI) policies under this OPM program. We have paid over $60,000 in premiums since then, much more than we otherwise would have, because we believed this policy was special. We were told premiums would be locked in at a flat rate, while benefits increased by 5 per cent annually. Every other policyholder we've talked to in the last few months believed the same.

Here is why: Attachment 1 is a copy of the application form on which you checked your choice between this ACI policy and a second option called the Future Purchase Option (FPO). The form says above the boxes that: "If you have any questions regarding Inflation Protection, please refer to your *Inflation Protection Options Brochure* in your kit."

Attachment 2 is the cover of that brochure, and Attachment 3 is the text inside. As you can see, it says in the subtitle on the right, that if you buy the ACI Option you will "Pay More Now, But Lock in a Flat Rate." Three lines down from this it says there will be "NO" increase in premiums. The chart shows the ACI premium remaining flat over 30 years, as do other materials we received. This brochure is the last thing anyone would look at if they had any questions.

OPM now contends that it informed us our ACI premiums could be increased. It cites wording in its "*Outline of Coverage*" document that states:

> *"Your premium will not change because you get older or your heath changes or for any other reason related solely to you. We may only increase your premium if you are among a group of enrollees whose premium is determined to be inadequate. While the Group Policy is in effect, OPM must approve the change."*

However, this wording is contained in the document's discussion of **only** the Future Purchase Option and when its premium may change, not in the document's discussion of the Automatic Compound Inflation Option that we chose.

Specifically, in the "*Outline of Coverage*" document pages 11 to 13 there are graphs just like the one in the *Inflation Protection Options* Brochure that depicts the FPO Option with its initially lower premium that continues to rise over a period of 30 years compared to the initially much higher ACI premium that again is shown to remain level over this period.

Attachment 4 is a copy of page 10 of this *Outline of Coverage* document, the page just before these graphs, and it contains two separate bold-print titled sections describing each option. Notice the arrow at the end of the second section on the FPO Option pointing to a sentence that says "See the section titled When Your Premium May Change." In contrast, however, if you look up at the above section on the ACI Option – the option we bought – you will **not** see this sentence referring to the "When Your Premium May Change" section.

This "When Your Premium May Change" section – that is indicated as being relevant to the FPO Option, but not to the ACI Option -- is found on page 14 after the graphs and is included here as Attachment 5. Again, note the two arrows. The first arrow points to a short paragraph discussing the ACI Option, saying the premium will not go up because of inflation. The second arrow points to wording after the discussion of the FPO option that states

> *"Your premium will not change because you get older or your heath changes or for any other reason related solely to you. We may only increase your premium if you are among a group of enrollees whose premium is determined to be inadequate. While the Group Policy is in effect, OPM must approve the change."*

It is this wording that the insurers and OPM say is the basis for the ACI increase; i.e., that enrollees in the ACI Option are in a group whose premiums have been determined to be inadequate.

However, as you have just seen, this "When your Premiums May Change" section was not linked to the ACI option on page 10, but **only** to the FPO option. Separating the placement of this wording from the ACI Option and putting it next to the FPO Option -- an option whose premiums OPM stated may or may not prove adequate over time depending on how much costs increase as measured by a medical care consumer price index – further reinforced this lack of linkage to ACI.

The same disconnection of this wording from the ACI Option was repeated in the benefit booklet sent to applicants after they had been enrolled. Thus, although enrollees had a grace period to decline their acceptance, they had no reasonable cause to because this booklet did not link the wording to the ACI.

One reason my wife and I are especially disturbed by the proposed ACI increase is that in late 2002, my agency, GAO, had a presentation on the program to which spouses were also invited. We both attended and in the question period I raised my hand and specifically asked representatives of the program under what exact circumstances any premium increase could occur. I was told that it could only happen in the very unlikely event that all program participants' premiums were raised. In other words, I was told we were all in a common risk pool.

But that, too, was not true, because the rate increase isn't being applied to all enrollees or to those in the Future Purchase Option. And it is only being applied on a sliding scale to those in the ACI whose age at purchase was less than 70. Moreover, it would seem that this structure of the premium increase is discriminatory. In essence it would appear that younger enrollees are being discriminated against based on age.

In an August 18, 2009 letter to DC Delegate Eleanor Holmes Norton, responding to concerns we expressed to her about the premium increase structure, OPM said that this is based upon differences in expected investment returns and persistency of participation of younger enrollees. However, they did not provide any specific data to support this. It remains unclear why this would lead to a perfectly even, smooth slope in differential increases across a single 5-year age cohort range and then cease to make any difference within or between the next and all successive such cohort ranges. Put another way, it seems counterintuitive, to say the very least, that the increases for those enrolled at ages 66, 67, 68, and 69 would decline by 5% in a perfectly steady fashion, while there would be no difference in premiums among those 70 and older and a flat 25% increase for all those 65 and younger, whether they were 35 or 64. This suggests that the insurer can and perhaps has defined different groups and rates of increase in such an arbitrary and invidious manner such that no enrollee can ever have any reasonable expectation, predict, or know how they might be grouped under the policy now or in the future. It is unacceptable for OPM to merely issue bland assurances that everything is being done correctly. It needs to disclose the details of all calculations and the associated rationales for its acceptance of this premium increase structure, and to show results are equitable across all other single year age groups, not just for 66-70.

In the same letter to DC Delegate Eleanor Holmes Norton, OPM also said its program materials could have and will in the future "emphasize more" the provision for increases. In fact, the materials it recently rolled out now include an asterisk linking a footnote on this provision to the ACI. The attached documents clearly refute OPM's implication that such linkage ever existed or received any "emphasis" at all when we enrolled, and it still fails to acknowledge that any incorrect or inadequate materials such as you have seen today were ever provided. The new asterisk, while an apparent admission of mistakes, is still completely inadequate for enrollees to gain a clear understanding of such a critical matter.

The proposed ACI premium increase should be seen in a larger and, to us, even more disturbing perspective. Not only are we shocked to learn that OPM proposes to renege on our "locked in" premium rate, but we have only just now been told that the original contract was limited to only seven years. What this means, then, is that we are now placed in a terribly unfair position. Either we pay a higher premium now and possibly with every new contract, or we are forced to accept lesser coverage for the same high premium we pay and only hope that coverage isn't further eroded in the future, or we must obtain a different policy in the marketplace. This third option is especially problematic since we're seven years older which would make any new policy considerably more expensive and, given health changes, a new policy may not even be available for some of us.

Officials from OPM and insurers have said that there are not any plans for another increase in 2016 when the new contract expires. Yet, in a September 9, 2009 NPR interview, OPM Director John Berry stated that such increases will happen -- and I quote him here -- "every time." OPM needs to disclose all calculations on which these conflicting judgments about this are based.

A decision on long-term care is probably the most crucial financial decision many of us will be making, because of its impact on our financial resources and on our loved ones. However, 5-1/2 months after OPM made a brief press statement saying it had approved an ACI premium increase, we still have not been told exactly what the increase is or what our options will be. If OPM does tell us this at the end of the month, as it has indicated, we will only have about 6 weeks to respond to OPM's December 14th deadline. Long-term care insurance experts tell us this is not enough time to identify and compare other possible choices and to pass the required medical underwriting. This, in effect, amounts to stonewalling that precludes us from comparing this federal program with other options.

OPM has said repeatedly that its program complied with the National Association of Insurance Commissioner's (NAIC's) guidelines for long-term care insurance. OPM provided us with its own *Companion Guide* to NAIC's *Shopper's Guide*. But this OPM *Companion Guide* omitted mentioning a warning note in NAIC's *Shopping Guide,* that is shown here in Attachment 6. This warning note says that wording like "flat rate" or that "premiums will never increase" -- which, as you have seen, OPM used in describing the ACI Option -- is considered misleading and that many states have adopted regulations that don't let insurance companies use it.

Chairmen Kohl and Akaka, all ACI policyholders we've spoken with agree we never would have purchased these policies if we had known that OPM's "Pay More Now, But Lock In A Flat Rate" statement was not true. But now that we have, we're stuck in a very tough place. What is particularly galling to us, as current and former federal employees, is that what tipped the balance in our decision-making was our trust in OPM's oversight.

I'm not saying that OPM and the insurers were acting in bad faith. But, by the same token, OPM and the insurers cannot in good faith contend that the documents you've seen today support their claim that we were properly informed about how and when rate increases could occur.

The proposed fix of offering to let us pay the same amount for lesser coverage is not an equitable remedy in this instance for our real financial injuries. Where is the fairness and accountability, especially since this solution is silent on future additional changes that may be caused by potential later contract negotiations?

Ideally, the most equitable remedy would be to grandfather current enrollees at the existing rate, applying the increase only to new enrollees. Other non-mutually exclusive remedies might include:

> --Crediting current enrollees who switch to a lower level of ACI coverage or to an FPO policy with the difference between (a) the amount that they have paid to date in premiums and (b) the amount that they would have paid to date if they had purchased this lower coverage initially. This credit could be made either in cash or as forward funding of their new premium payments until the difference is exhausted, at which time new premium payments would recommence.
>
> --Making it that premiums are also reduced if investment returns rebound. (Surely OPM isn't endorsing a heads-they-win-tails-we-lose approach...)

--Automatically including, via legislation, existing ACI policies under state Medicaid Long-Term Care Partnership programs, as a pilot or exemplar of the thrust of Chairman Kohl's more far-reaching and thoughtful bill, S. 1177. This would, among other things, provide a special laboratory for his approach – an approach that appears likely to be central to any successful nationwide effort to expand the number of purchasers of long-term care policies and, thus, also ultimately lower federal and state Medicaid costs.

--Appointing a policyholder advisory body to participate in all program evaluation and decision processes and direct the GAO to conduct regular program evaluations.

However, there is a remedy needed which goes beyond making whole ACI policyholders who have been demonstrably injured. Throughout the discussions of this issue over the last few months, OPM has limited its responses to merely making assertions about its decision process and what went into it. It has not released the quantitative data underlying its or the insurers' assumptions for calculating premiums or their adequacy, despite telling the GAO in 2005 that it would provide these data to the Congress prior to the renewal or renegotiation of its contract with the insurers. By failing to do this, including disclosing how the structure of its increase was arrived at for different enrollee cohorts, it is falling short of the transparency that is reasonably expected and needed in the present circumstances.

Instead, OPM says that independent actuaries have confirmed the insurers' contentions regarding what they require. However, given events to date, it is clear that the only independent analysis taxpayers and enrollees can truly trust is one conducted by the GAO. The legislation establishing this program included a requirement for periodic GAO analysis. There can be no better time or circumstance to renew this oversight process than now.

According to GAO's December 2006 report (GAO-07-202), a portion of the insurer's profit is based on a "Report Card" score that OPM gives the insurer on how well it performed its responsibilities. Given the unexpected premium increase and OPM's statement that this occurred because the insurer made incorrect assumptions about enrollee persistence and other factors, it is difficult to understand how the insurer's grade could have been in the acceptable range. However, what this evaluation was, how it was made, and whether changes in this process or other OPM program management processes are needed to ensure accountability remain unknown and also need to be included in any GAO analysis. OPM's failure to identify the

insurers' errors during its own oversight review and analysis is as much or more of a concern as the insurer having made them in the first place.

Finally, we are wondering why there has been only one provider and apparently this situation will continue. OPM has said that regulations prohibit it from disclosing anything about other bidders, how many there were, etc. But this would not be privileged information from GAO, which underscores the need for its review function. We think examination and consideration of expanding the number of providers to ensure better competition should be included in GAO's examination scope.

Thank you again for the opportunity to provide you with my views.

Attachment 1: Application Part H Inflation Protection

PART H | INFLATION PROTECTION

Select one Inflation Protection Option. If you have any questions regarding Inflation Protection, please refer to your *Inflation Protection Options Brochure* in your kit.

☒ Automatic Compound Inflation Option

OR

☐ Future Purchase Option

PART I | REPLACEMENT COVERAGE QUESTIONS

Please review and consider the following questions regarding replacement of existing coverage. Federal law requires that we ask you these questions about Medicaid and other current long term care insurance coverage. Please check "yes" only if the situation addressed in a question applies to you. Your answers to these questions will NOT affect your eligibility for insurance under the Federal Long Term Care Insurance Program. If you answer yes to question 2, we will notify your current insurance carrier that you have applied for coverage under this Program. You should not replace any existing medical or health insurance coverage with Federal Long Term Care Insurance. These are different types of insurance that cover different types of care.

1. Medicaid is the state/Federal program that helps pay medical costs for some people with low incomes and limited resources. It is known as Medi-Cal in California. Please note that Medicaid is NOT the same as Medicare.

☐ YES ☐ NO **Are you covered under Medicaid? If you answer yes, you may wish to carefully consider whether you really need long term care insurance.**

2. If you currently have a long term care insurance policy or certificate, you should compare its benefits and costs with the benefits and costs of the Federal Long Term Care Insurance Program. It may or may not make sense for you to replace that policy or certificate with coverage under this Program. You should be certain that you are making an informed decision, and certainly do not cancel any long term care insurance you currently have unless/until your coverage under this Program is effective.

☐ YES ☐ NO **Are you replacing another long term care insurance policy or certificate currently in force? If yes, please provide the following information:**

Policy # _____ Insurance Company Name _____

Insurance Company Address _____

Attachment 2: Brochure – Inflation Protection Options–Front & Back Cover

Inflation Protection Options

Choose one of these options to make sure that your coverage stays up-to-date with the rising cost of care

Act Smart

The Federal Long Term Care Insurance Program

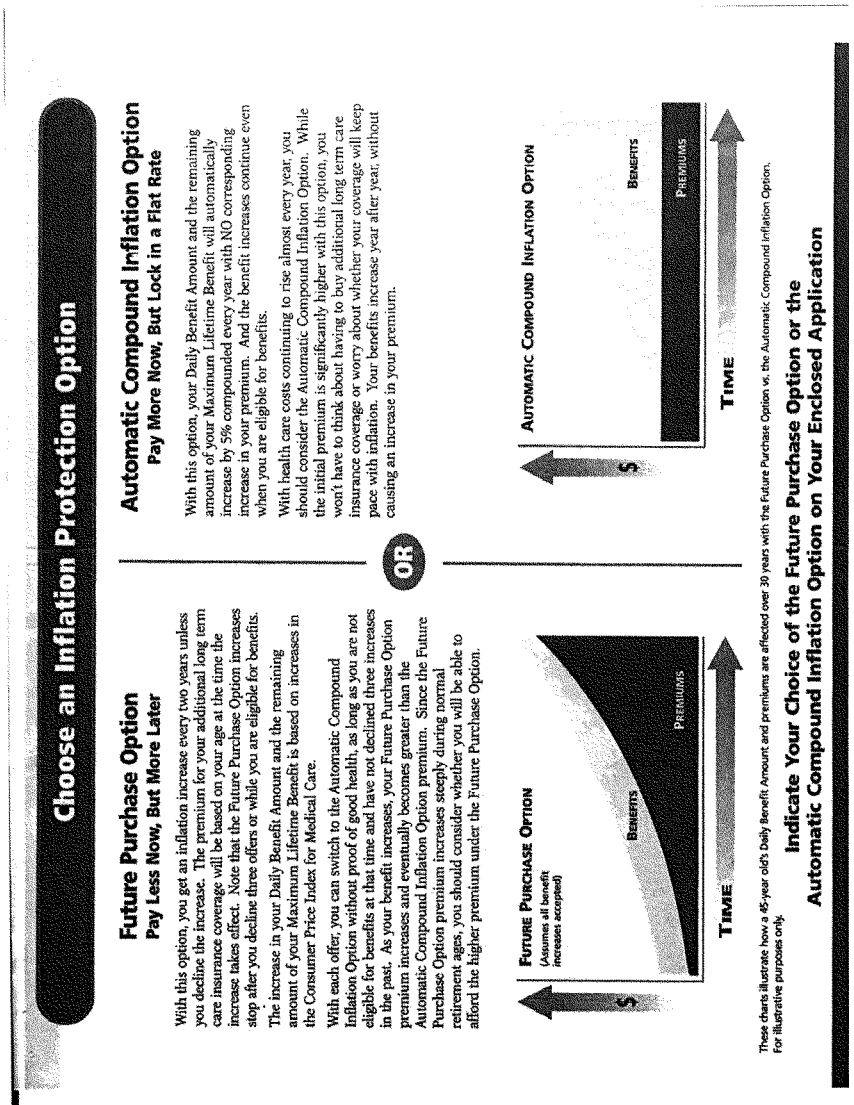
Sponsored by the U.S. Office of Personnel Management and Offered by John Hancock and MetLife

The Federal Long Term Care Insurance Program is administered by Long Term Care Partners, LLC, and offered by: John Hancock Life Insurance Company, Boston, MA 02117 Metropolitan Life Insurance Company, New York, NY 10010

John Hancock MetLife

FEDC0005 (6/06)

Attachment 3: Brochure-Inflation Protection Options-Inside Contents



Attachment 4: Outline of Coverage – Page 10

7 RELATIONSHIP OF COST OF CARE AND BENEFITS

Because the costs of long term care services will likely increase over time, you should consider whether and how benefits under the Federal Program may be adjusted. You have the choice of receiving benefit increases under the automatic compound inflation option or the future purchase option.

Automatic Compound Inflation Option

On each anniversary of your original effective date of coverage (or the date you switch to this option), your daily benefit amount and the remaining portion of your maximum lifetime benefit will automatically increase at a rate of 5% compounded annually. These increases are made even if you are eligible for benefits, without regard to your age, claim status, claim history or the length of time your coverage has been in effect, and will not cause your premium to increase.

Future Purchase Option

Every two years we will increase your daily benefit amount and the remaining portion of your maximum lifetime benefit, except as described below. We will send notice of the first increase in the fall of 2003 for the increase that will apply on January 1, 2004. Increases will occur every two years on January 1st thereafter. Your coverage must be in effect for at least 12 months in order for you to receive your first increase under this provision. The increase will be a percentage based upon the change in the Department of Labor's Consumer Price Index for Medical Care or another index mutually agreed upon by OPM and us.

If you do not want the increase, you must send us a written rejection before the date the increase will take effect. If you want the increase, you do not have to take any action other than paying the additional premium. The increase will automatically take effect. Increases under this option will be made regardless of your age, but we will not increase your benefits under this option if you are eligible for benefits or if you declined a total of three prior increases.

Increases under this option do not require you to provide evidence of your good health, except as noted below. Each time we send you notice of an increase under this option, we will also offer you the opportunity to receive future benefit increases under the automatic compound inflation option instead of this option. If you elect to switch to the automatic compound inflation option, you will not receive the current increase under the future purchase option.

If you have declined a total of three increases under this option and you later wish to resume receiving increases, you must provide, at your expense, evidence of your good health that is satisfactory to us.

➡ See the section titled When Your Premium May Change.

Comparison of Automatic Compound Inflation Option and Future Purchase Option

The sets of graphs that follow compare the automatic compound inflation option (ACI) and the future purchase option (FPO) under the Comprehensive Option. The FPO graphs reflect two scenarios: all FPO increases accepted and all FPO increases declined. There are comparisons for three issue ages: 45, 55 and 65. The graphs compare your monthly premium over time and your daily benefit amount over time. The length of time we have used for the issue age 45 graphs is 30 years; for the issue age 55 and 65 graphs, we have used 20 years. The lengths of time are illustrative only and do not imply that your coverage would end after either length of time shown.

Attachment 5: Outline of Coverage – Page 14

Other Benefit Changes (Upgrades and Downgrades)

At any time, you may request an increase (upgrade) or decrease (downgrade) in your coverage. In order to receive approval of a request for an increase, you must provide, at your expense, evidence of your good health that is satisfactory to us. You do not have to provide evidence of your good health for a decrease. The amount of an increase or decrease is subject to Federal Program options available at the time of your request. Any increase that is approved by us will be based on your age and the premium rates when the increase takes effect. See the section titled When Your Premium May Change.

8. **WHEN YOUR PREMIUM MAY CHANGE**

If you select the automatic compound inflation option, your premium is designed to include all future inflation increases you will receive each year while you are insured. Your premium will not increase due to inflation increases under this option.

If you select the future purchase option, your premium will increase for each inflation increase under this option. The additional premium for each increase will be based on your age and the premium rates in effect at the time the increase takes effect. If you accept an offer to switch from the future purchase option to the automatic compound inflation option, your premium will increase at the time that switch goes into effect. This increase in premium pays for future increases under the automatic compound inflation option. Once you have switched, your premium will not increase for any subsequent inflation increase.

If you request and we approve a daily benefit amount increase other than an inflation increase, your additional premium will also be based on your age and the premium rates in effect at the time the increase takes effect. Other coverage increases you request and we approve will cause your entire premium to be based on your age and the premium rates in effect at the time the increase takes effect. If you request a decrease in coverage consistent with available Federal Program options, your premium will decrease.

See the section titled Relationship of Cost of Care and Benefits for a summary of these benefit change provisions.

Your premium will not change because you get older or your health changes or for any other reason related solely to you. We may only increase your premium if you are among a group of enrollees whose premium is determined to be inadequate. While the Group Policy is in effect, OPM must approve the change.

9. **WHEN YOU MAY RECEIVE A PREMIUM REFUND**

30 Day Free Look/Cancellation of Coverage

Within 30 days after you receive your Benefit Booklet, you may cancel your coverage if you are not satisfied with it and receive a refund or your premium. If you wish to do this, you must notify us within 30 days of receiving the Benefit Booklet. Then we will refund all of your premium within 30 days. It will be as if the coverage was never issued.

You may cancel your coverage at any other time; however, we will only refund premium that covers a period after the effective date of your cancellation.

Other Refunds of Premium

We will refund any premium that you paid to cover any period after the date of your death or during which your premium is waived.

When you buy a long-term care policy, think about how much your income is and how much you could afford to spend on a long-term care insurance policy now. Also try to think about what your future income and living expenses are likely to be and how much premium you can pay then. If you don't expect your income to increase, it probably isn't a good idea to buy a policy if you can barely afford the premium now.

Some states have laws that limit rate increases. Check with your insurance department to learn how your state regulates rate increases.

NOTE: Don't be misled by the term "level premium." Some agents might tell you that your long-term care insurance premium is "level" and suggest that it will never increase. Except for **whole life insurance** policies and **noncancellable policies** or riders, companies can't guarantee premiums will never increase. Many states have adopted regulations that don't let insurance companies use the word "level" to sell guaranteed renewable policies. Companies must tell consumers that premiums may go up. Look for that information on the outline of coverage and the policy's face page when you shop.

If You Already Own a Policy, Should You Switch Plans or Upgrade the Coverage You Have Now?

Before you switch to a new long-term care insurance policy, make sure it is better than the one you already have. Even if your agent now works for another company, think carefully before making any changes. First check to see if you can upgrade the coverage on your current policy. If not, you may replace your current policy with a different one that gives you more benefits, or even choose a second policy. Be sure to discuss any change in your coverage with your financial advisor.

If you decide to switch to a new long-term care insurance policy, make sure the new company has accepted your application and issued the new policy before you cancel the old one. When you cancel a policy in the middle of its term, many companies will not give back any premiums you have paid. If you switch policies, new restrictions on pre-existing conditions may apply. You may not have coverage for some conditions for a certain period.

Switching may be right for you if your old policy requires you to stay in the hospital or to receive other types of care before it pays benefits. Before you decide to change, though, make sure you are in good health and can qualify for another policy. If you bought a policy when you were younger, you might ask the insurance company if you can improve it. For example, you might add inflation protection or take off the requirement that you stay in the hospital. It might cost less to improve a policy you have now than to buy a new one.

The CHAIRMAN. Thank you, Mr. Joy.
Ms. Senkewicz.

STATEMENT OF MARY BETH SENKEWICZ, DEPUTY COMMISSIONER, FLORIDA OFFICE OF INSURANCE REGULATION, TALLAHASSEE, FL

Ms. SENKEWICZ. Thank you, Chairman Kohl, Chairman Akaka, Ranking Member Corker. Good afternoon, everyone. Thank you for inviting me here.

In addition to my position in Florida, I also serve on behalf of Commissioner Kevin McCarty as Chair of the NAIC's Senior Issues Task Force, and it is on the NAIC's behalf that I testify today, an organization comprised of insurance regulators from the 50 States, the District of Columbia, and five U.S. territories.

Before I begin, I would like to thank the Senate Special Committee on Aging for its continued focus on improving the long-term care insurance market. The NAIC appreciated the opportunity to work with Chairman Kohl on S. 1177, the Confidence in Long-Term Care Insurance Act of 2009. If enacted, this bill would improve the long-term care insurance marketplace.

As we all know, our Nation faces an increasing challenge of how to pay for long-term care services. Medical inflation is rising faster than incomes. Some individuals can afford to put money aside, but many rely on Medicaid, which puts considerable pressure on State and Federal budgets.

A healthy long-term care market will help alleviate that pressure. Currently, private long-term care insurance provides approximately 10 percent of the total long-term care services in the country, but it is increasing. In the past decade, the market has grown from covering less than 3 million lives to covering more than 7 million lives, with premiums increasing to over $100 billion.

However, let us be frank. Long-term care insurance has proved a challenging product to regulate because of the length of the tail. You are purchasing a product that you do not expect to access benefits for over 30 years. The history of the product has shown us this. Long-term care policies, unlike the original policies which generally only provided nursing home care, now incorporate a myriad of care alternatives, including nursing home, home health care, respite care, hospice care, and services provided in assisted living facilities, adult day care centers, and other community facilities. In addition, we have observed the emergence of group policies, most notably the Federal Long Term Care Insurance Program.

State regulators did notice during the 1990's many companies were under-pricing long-term care policies due to faulty assumptions. This resulted in Florida and many States with significant rate increases for the companies to pay unanticipated claims in order for them to retain their solvency. One result, policyholders had to lapse.

At this time, the NAIC—we studied it. We developed and adopted rate stabilization standards in August 2000 which revised the NAIC long-term care model regulation. These standards, adopted by Florida in 2003, provide incentives for the company to price its products adequately at the front end so that no rate increases will be necessary and require company assurances that the rates are

sufficient to pay anticipated costs under moderately adverse experience during the life of the policyholder.

In addition, the new standards require specific disclosure to the consumer about the potential for rate increases which must be signed and acknowledged by the consumer. Let me repeat that. A specific disclosure is contained in appendix B of our model regulation which is called the "long-term care insurance personal worksheet." Right up near the front in bold print is the company's right to increase premiums. On the second page, there is a little box that you have to check that says we also require that they provide a 10-year rate history, and there is a little box that you have to check and sign that says I understand that this premium—the price for this product may go up in the future.

A second appendix, appendix F, also discusses what happens if there is a contingent benefit upon lapse when there are rate increases. This one is specifically signed. The other is informational.

If the company does file for a rate increase under these standards, the company is penalized and a persistent practice could result in a company's suspension from the market.

In Florida, we have been even more aggressive in adopting regulations to protect seniors. In addition to the NAIC models, we require rate pooling across similar benefits and we impose limits on the relationship between the new business and renewal rates, which helps reduce death spirals because requiring this pooling and requiring that the rates be capped by the new business rate, you are preventing people from being in that death spiral when a block is closed.

We believe the adoption of S. 1177 would be an important tool, as it would update Federal consumer protection standards and institute a formal process for incorporating new NAIC-adopted protections in tax-qualified and partnership plans.

In conclusion, we have worked hard over the years to keep up with our regulatory oversight of this product, as it has changed rapidly and often during the last 20 years. We look forward to continuing our partnership with Congress to achieve the goal of continuing to protect consumers.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Senkewicz follows:]

Testimony of Mary Beth Senkewicz
Deputy Insurance Commissioner
Life & Health
Florida Office of Insurance Regulation

On behalf of:
The National Association of Insurance Commissioners

Long-Term Care Insurance: An Evolving Industry

Before the
Senate Special Committee on Aging
and the
Senate Committee on Homeland Security and Government Affairs,
Subcommittee on Oversight of Government Management,
The Federal Workforce, and the District of Columbia

October 14, 2009

Introduction:

Good afternoon Chairman Kohl, Chairman Akaka, Ranking Member Corker, Ranking Member Voinovich, and Members of both Committees. My name is Mary Beth Senkewicz, and I am the Deputy Insurance Commissioner for Life and Health for the Florida Office of Insurance Regulation. I also serve as Chair of the National Association of Insurance Commissioners' (NAIC) Senior Issues Task Force.

Today I am testifying on behalf of the NAIC, which represents chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. However, I will also focus on the experience of the State of Florida, which has the oldest population in the United States. Florida has also implemented some of the most stringent consumer protection laws in the nation for seniors who purchase private long-term care insurance.

Thank you for inviting me to discuss the collective experience of the NAIC and its member states about the regulation of private long-term care insurance in the United States, which is important as you review recent developments in the Federal Long-Term Care Insurance Program (FLTICP). Long-term care insurance is a relatively new product which has posed unique challenges for state insurance regulators as well as for consumers. The NAIC and its member states have worked diligently to refine our regulatory approach to meet these challenges.

I would also like to thank the Special Committee on Aging for your continued focus on improving the long-term care insurance market. State Insurance Commissioners were pleased to

testify at an Aging Committee hearing earlier this year to examine the value of long-term care insurance. And the NAIC was pleased to work with Chairman Kohl on S. 1177, the Confidence in Long-Term Care Insurance Act of 2009, which was introduced earlier this year and submitted as an amendment to health reform legislation in the Finance Committee by Senator Ron Wyden. Since the bill was originally introduced, Chairman Kohl was very receptive to incorporating suggestions made by state regulators and we appreciate this collaboration to improve the legislation. The NAIC strongly supports this bill, as amended, and believes that enactment of the consumer protections called for by the legislation will make important strides in improving the long-term care insurance market place.

Background:

As our population ages, our nation faces an increasing challenge of how to pay for long-term care services. These services can be very expensive: the average cost of a nursing home is over $74,000 a year today, and medical inflation is rising faster than incomes. While some individuals can afford to put aside money to pay for their own long-term care, others must rely on Medicaid.

A healthy long-term care insurance market will help alleviate pressure on state and federal programs. Currently, private long-term care insurance policies finance approximately 10% of the total long-term care services utilized in this country, but this is changing. In the past decade the market has grown from covering less than three million lives to now covering more than seven million lives. The market has grown from a premium volume of $16 billion to over $110 billion in 2007.

Individuals typically purchase long-term care insurance policies at a younger age to offset the anticipated costs of long-term care expenses in the future. Unlike most health-related insurance, this product is meant to mitigate expenses that may not occur for another 15-30 years. The initial long-term care products were developed in the 1960s following the creation of the Medicare program in 1965. These initial policies were intended to supplement payment for the primary form of long-term care at that time: nursing homes.

The long-term care insurance policies we see today have evolved significantly. In the 1980s, we observed the development of stand-alone nursing home policies. Over time, these policies were no longer tied to Medicare coverage, but instead were triggered by the insured's inability to perform defined activities of daily living (ADLs) and cognitive impairment. These policies now incorporate a myriad of long-term care service alternatives including home health care, respite care, hospice care, personal care in the home, services provided in assisted living facilities, adult day care centers and other community facilities. In addition, we have observed the emergence of group long-term care policies, the most notable being the Federal Long-Term Care Insurance Program.

State Regulation and the NAIC Model Regulation:

Long-term care insurance has been a challenging product to regulate. The NAIC and its member states have worked to protect consumers by enacting protections designed to keep abreast of the changes in product design and to address problems encountered in the marketplace. In 1987, the NAIC adopted the Long-Term Care Insurance Model Act followed by the Long Term Care

Insurance Model Regulation in 1988. These models were adopted to assist states in developing a regulatory structure for the oversight of long-term care insurance. Federal law subsequently required that consumer protections contained in the NAIC models be applied to tax-qualified long-term care insurance plans. Since then we have made numerous improvements to the models to address the unique challenges in this market – including rate stability, suitability, loss ratio requirements, consumer disclosures, and other critical consumer protections.

Because it is a relatively new product, long-term care insurance policies have limited accumulated claims experience. During the early years of this product, state regulators discovered that many companies were under-pricing long-term care policies due to faulty assumptions and data, particularly as it related to lapse rates and future anticipated claims. When a company's premiums are too low to cover claims, a company's solvency, or ability to pay claims, is threatened and the company must increase premiums.

In the 1990s, state regulators witnessed a period of adjustment in the marketplace as companies refined their assumptions and adjusted their premiums accordingly. In Florida and in other states, we saw companies impose significant rate increases. One result was that many policyholders could not afford these new premiums and allowed their policies to lapse.

Although companies need to charge sufficient premiums to remain solvent and pay claims, state regulators believe that consumers must be treated fairly in the pricing of these policies. Insurers must charge consumers a higher initial rate to limit potential future increases, and ensure rate stability.

To prevent the continuation of sizeable rate increases and to mitigate the need for future rate increases, the NAIC developed and adopted rate stabilization standards in 2000 as part of revisions to the NAIC LongTerm Care Insurance Model Regulation. In addition to concerns about the rate increases themselves, regulators wanted to ensure the potential for future rate increases was adequately disclosed to consumers. As a result, the NAIC added supplemental requirements for consumer disclosures to the Long Term Care Insurance Model Regulation in conjunction with the rate stability provisions.

These rate stability standards, which were adopted by Florida in 2003, also required greater disclosure to the consumer, including the provision of a ten-year rate increase history to prospective policyholders that allows consumers to make a more informed decision. The standards require company assurances that rates are sufficient to pay anticipated costs under moderately adverse experience; it also requires a further assurance that rates are reasonable to sustain the coverage during the life of the policyholder.

Another provision of the standards to address initial under-pricing of policies pertained to minimum loss ratio requirements. Prior to 2000, long-term care insurance companies were required to meet a minimum loss ratio requirement of 60% -- meaning that 60% of the premium had to go towards payment of claims. In 2000, the NAIC changed this requirement to 58% of the original premiums filed. However, if the company increased rates, it would then need to meet an 85% loss ratio. This creates a strong disincentive for companies to under-price their products initially simply to gain market share.

Following each rate increase, the company is required to file its subsequent experience with the Commissioner for three years. If the increase appears excessive, the Commissioner may require the company to reduce premiums or adopt other measures, such as reducing its administrative costs to minimize the cost to policyholders. If premiums rise above a given level for a majority of policyholders based on their age, the company is required to file a plan for improved administration and claims processing or demonstrate that appropriate claims processing is in effect.

If the Commissioner believes that a rising rate spiral exists, he may require the company to offer policyholders affected by the premium increase to replace their existing policies (without underwriting) with comparable policies currently being sold. This allows policyholders trapped in a rising rate spiral to switch to a more stable policy. Finally, if the Commissioner determines that a company has persistently filed inadequate initial premium rates, the Commissioner may ban the company from the long-term care insurance marketplace for up to five years.

Following the adoption of these provisions, states experienced a decline in rate increases. However, these NAIC standards are applied prospectively, which means they do not address policies sold before the standards were in place.

As you see, the NAIC and states have worked diligently to regulate this demanding product effectively. The consumer protections and regulatory requirements work together to provide stability for the consumer. The NAIC continues to monitor this marketplace closely and to refine

our regulatory approach. In fact, the NAIC recently adopted new external review standards for claims denials that will be an important new consumer protection.

The State of Florida has been even more aggressive in adopting regulations to protect seniors. In addition to the protections provided by the NAIC model acts, Florida enhanced rate pooling by defining similar benefits and articulating limits on the relationship between the new business and renewal rates, which helped reduce death spirals. Florida also requires pooling across affiliates. Florida also has an additional contingent nonforfeiture benefit for limited pay long-term care insurance policies that are more stringent than the NAIC model law. This revision recognized the impact of the greater amounts of premiums received in early policy years and provided significantly higher nonforfeiture benefits than the option that applies to lifetime pay plans. Insurers in Florida are required to offer a paid-up policy option should the policy lapse or the policyholder is unable to pay for rate increases.

Other Efforts:

With the complicated nature of the long-term care insurance product, consumer education is critical. Consumers often have a difficult time understanding how the product works, when and whether they should purchase it, and how coverage is accessed and premiums are determined.

To address this concern, the NAIC has developed a Long-Term Care Buyer's Guide, with products and tips for purchasing these products. This Buyer's Guide is an extensive explanation of the various aspects of the product. Most states require this guide to be provided to consumers by plans and producers.

The adoption of S. 1177 as amended would be another important tool to strengthen consumer protections for long-term care policyholders. This legislation augments state laws and model regulations developed by the NAIC. The bill would update federal consumer protection standards and institute a formal process for incorporating new NAIC-adopted protections in tax-qualified and Partnership plans.

Conclusion:

State regulators continue to vigilantly monitor the long-term care insurance marketplace. The NAIC and states have adopted numerous consumer protections and regulatory requirements in our model regulation to provide stability for the consumer. As regulators, companies, consumers, and policymakers gain more experience with this product, the regulation will need to continually evolve to protect consumers. We look forward to continuing our partnership with Congress to achieve this goal.

The CHAIRMAN. Thank you, Ms. Senkewicz.
Ms. Harrison.

STATEMENT OF MARIANNE HARRISON, PRESIDENT, LONG TERM CARE, JOHN HANCOCK FINANCIAL SERVICES, INC., BOSTON, MA

Ms. HARRISON. Good afternoon, Chairman Kohl, Chairman Akaka, and members of the committees. I am Marianne Harrison, President and General Manager of the Long Term Care Business Unit at John Hancock. I welcome the opportunity to appear before you today to discuss the Federal Long Term Care Insurance Program.

We believe long-term care insurance is a critically important product that can help mitigate the impact of potentially devastating costs on the financial well-being of American families facing a long-term care situation. We have always actively supported consumer protection legislation and regulations at the State and national level, and we commend the initiatives proposed by Chairman Kohl in S. 1177, the Confidence in Long Term Care Insurance Act of 2009. This bill would help to further strengthen the consumer protections afforded to purchasers of long-term care insurance.

My testimony today will address the issue of premiums charged under the Federal program and describe our communications campaign to help enrollees evaluate their options and facilitate an informed decisionmaking process. I would like to add that we regret any misunderstandings that may have arisen as a result of the rate increase. We are hopeful that this hearing will help to dispel that confusion.

At the outset, I would like to highlight three critically important points. First, everyone can avoid the rate increase without a reduction in his or her current benefit levels. Second, no one who purchased at the issue age of 70 or above will experience a rate increase, and third, everyone will have time and support to evaluate his or her options.

In the world of long-term care insurance, the Federal program has a unique funding mechanism that allows for complete and total transparency. All of the premiums collected for the Federal program go into a separate fund called the Experience Fund and cannot be used to cover unrelated liabilities of the insurer or for any purposes other than the Federal program. All premiums must go into the Experience Fund and all debits such as program claims, expenses, and fees are paid out of the Experience Fund.

As the program developed, we saw that some of the original pricing assumptions were inconsistent with actual experience. In particular, enrollee mortality and lapse rates have been significantly lower than expected. This has been the case even though a lower lapse rate had been assumed in pricing but not generally used throughout the industry at the time.

Also, investment experience has been worse than expected, the consequence of the low interest rate environment that evolved shortly after the program began in 2002.

While it is still early in the program, it is evident that in order for the program to have enough money to cover the claims that are

now expected to be incurred in the future, it is necessary to revise some of the premiums. For those enrollees who will experience a rate change, the average monthly increase is approximately $29 per month. All of the people impacted by the increase purchased a 5 percent annual inflation adjustment.

Out of concern that some of these enrollees might find this increase in premium unmanageable, we developed an option that allows an individual to avoid an increase in premium altogether by changing from a 5 percent annual benefit increase to a 4 percent annual benefit increase. This alternative allows enrollees to retain the core value of their current benefits including, for example, types of services, levels of reimbursement for services, waiting periods, and care coordination while still avoiding the rate increase. Again, making this change would not decrease current benefit levels.

We believe that a 4 percent annual benefit increase provides meaningful protection from increases in the cost of long-term care services over time.

We also believe much of the confusion has arisen because people assume that because premiums do not increase due to inflation under the Compound Inflation provision, that there was an implied guarantee that premiums would not increase for the program overall.

We have worked closely with OPM to develop a comprehensive communication strategy for current enrollees to provide clear and explicit descriptions of their choices and options.

We have also developed a process to provide enrollees with sufficient time to help them evaluate their options and choices. Open season for Federal employees to make decisions on all their health benefits is 30 days. Enrollees in the Federal Long Term Care Insurance Program will have at least 5 weeks to decide how they want to proceed. In addition, we will ensure that extenuating circumstances are considered and that every affected enrollee has an opportunity within a reasonable timeframe to avoid the rate increase.

John Hancock believes that private insurance will play an increasingly important role as a source of funding for long-term care needs in the coming years and that the reasons for which the Federal program was established are more valid than ever. Our commitment to protecting the interest of our current and future policyholders is unequivocal.

Thank you for the opportunity to speak to you today to offer this testimony. I will be happy to answer any questions you may have at this time.

[The prepared statement of Ms. Harrison follows:]

Statement
of
John Hancock Life & Health Insurance Company

Presented by

Marianne Harrison
President and General Manager
Long Term Care Insurance

before the

Special Committee on Aging
and
Homeland Security and Governmental Affairs
Subcommittee on Oversight of Government Management, the
Federal Workforce, and the District of Columbia
of the
United States Senate

October 14, 2009

Good afternoon, Chairman Kohl and Chairman Akaka, and members of the Committees. I am Marianne Harrison, President and General Manager of the Long term Care Business Unit at John Hancock in Boston. As one of the two original insurers of the Federal Long Term Care Insurance Program (FLTCIP), and one of the largest insurers of both group and individual long term care insurance, John Hancock welcomes the opportunity to appear before you today to discuss the features of the FLTCIP under the new contract period, including pricing, our communications campaign, and consumer support available to eligible members of the federal workforce and their families.

BACKGROUND

General Information About John Hancock

John Hancock has been in the business of insuring Americans' lives since 1862. Today we are a market leader in many of our product lines, including long term care insurance, which we've been writing since 1987. The importance to us of the John Hancock brand and our reputation cannot be overstated. We believe that any product we sell must be worthy of our brand and reflect our reputation in the marketplace.

We are committed to the FLTCIP and to the overall group and individual long term care insurance markets. Based on new premium sold, John Hancock ranked first in the long term care insurance market in 2007 and 2008, and is the leader to date in 2009.[1] We currently have more than 1.2 million long term care insurance policyholders. To date, John Hancock has paid more than $2.4 billion in long term care insurance claims and we pay over $1 million in claims every day.

[1] LIMRA, Individual and Group LTCI Sales Surveys for 2007, 2008 and 2009.

We believe that a history of financial strength and stability is important for consumers considering the purchase of long term care insurance and can be a market differentiator. John Hancock has some of the highest ratings for financial strength and stability. The following are our financial ratings as of today's date.

John Hancock Life & Health Insurance Company	
Standard & Poor's	AA+ (2nd of 8 categories)
Moody's	Aa3 (2nd of 9 categories)
A.M. Best	A+ (1st of 9 categories)
Fitch Ratings	AA (2nd of 9 categories)

The company's parent, Manulife Financial Corporation, ranks as the 3rd largest public life insurer in the world and the largest in North America, based on market capitalization as of July 31, 2009.

John Hancock Support for Consumer Protections

As the leader in the long term care insurance market, John Hancock recognizes that we have an opportunity, and a responsibility, to engage in the ongoing national debate on this critically important product and its potential to help mitigate the impact of potentially devastating costs on the financial well-being of American families. In the absence of private insurance, or access to publicly funded programs, Americans have no choice but to bear the burden of these costs out-of-pocket. When the costs of long term care have to be borne by individuals, the assets accumulated over a lifetime of hard work can be wiped out. Hence the value of long term care insurance. We believe it is good business policy to support consumer protection legislation, at both the state and national level, to

help ensure that Americans can purchase quality long term care insurance products with confidence in the carrier's financial integrity and ability to keep their promises.

John Hancock commends and supports the initiatives proposed by Senator Kohl in S.1177, the Confidence in Long Term Care Insurance Act of 2009. This bill would strengthen the consumer protections afforded to purchasers of long term care insurance by:

- implementing the latest protections found in the NAIC Long term Care Model Act and Regulation to all tax-qualified and Partnership long term care insurance coverage;
- requiring the creation of and distribution of a model disclosure form which will provide consumers with consistent information regarding this insurance in an easily understandable format;
- creating a national web-based long term care comparison tool so that consumers may easily compare the coverages available to them in their state,
- requiring data collection and analysis of long term care insurance at regular intervals, both on a state and national basis, in order to evaluate the marketplace, ensure that consumers are well served by the products sold, as well as provide information as to the impact of Partnership programs on future state Medicaid budgets.

We believe that such initiatives will not only strengthen consumer protections, but will also serve as an excellent platform to educate the public on planning for its future long term care needs.

In July 2008, we testified to the Committee on Energy and Commerce Subcommittee on Oversight and Investigations of the United States Congress, reporting that we had added independent third party review of claim denials to our new contracts, well in advance of any regulatory requirement. In fact, such a provision has been included in the FLTCIP since its inception.

Further, John Hancock has been a long-standing, strong and vocal advocate of the rate stabilization provisions adopted by the National Association of Insurance Commissioners (NAIC) in its 2000 model law and regulation for long term care insurance. As early as September 2000, John Hancock provided testimony before the Senate Special Committee on Aging, along with then Kansas Insurance Commissioner and Vice President of the NAIC, Kathleen Sebelius, in support of the rate stabilization provisions, which were introduced by the NAIC in response to consumer concerns about premium rate increase activity undertaken by certain long term care insurance carriers. While most state regulations at that time were designed to prevent insurers from setting rates too high, the rate stability provision stipulated that long term care insurance premiums be set in accordance with "moderately adverse" assumptions, so as to lessen the likelihood that premiums would have to be raised.

General Information About Long Term Care Partners, LLC

The size, scale and visibility of the FLTCIP led to the need for and the establishment of a fully dedicated entity to administer the Program. John Hancock and MetLife, as partners during the initial contract period, established Long Term Care Partners, LLC (LTCP) in 2002 to handle all aspects of administration for the FLTCIP. Originally a joint venture company, equally owned by the two carriers, LTCP is now owned by John Hancock, effective with the new contract. Its staff brings deep experience in the long term care

insurance business, sensitivity to the federal workforce and annuitant communities, and proven capability to use information technology to build customer-focused systems, automate transactions, and enhance customer access. Long Term Care Partners consistently receives high marks from its customers on satisfaction surveys related to service levels and responsiveness.

FLTCIP Funding Mechanism

The FLTCIP funding mechanism is similar to a participating plan. All of the premiums collected for the FLTCIP go into a separate account, referred to as the Experience Fund, and cannot be used to cover unrelated liabilities of the insurer or for any purposes other than the FLTCIP. The Experience Fund is a mechanism that allows for complete and total accounting transparency. All premiums must go into the Experience Fund, and all debits such as Program claims, expenses and fees are paid out of the Experience Fund. The value of the Experience Fund is evaluated annually, to determine whether the Fund, along with future premiums and investment income, is adequate to pay expected claims, expenses and fees over the course of time. The results are presented in a report given to OPM each Spring. The Fund itself is audited annually by OPM's Office of the Inspector General.

If the Experience Fund has enough money to cover the Program's expected needs, no corrective action is needed. If the Experience Fund appears inadequate to cover the Program's long term needs, analysis is done to determine whether a rate adjustment is warranted. If the Experience Fund has a surplus that is not needed to cover provisions for moderately adverse experience, premiums can be reduced, or benefits can be enhanced for the participants without raising premium rates.

In the future, if the FLTCIP contract was awarded to a different insurance carrier, the full value of the Experience Fund would be transferred to the successor carrier, less any unreimbursed expenses and obligations that the Fund had incurred during the prior contract period. The Experience Fund thus serves as the financial foundation for the new FLTCIP contract period.

FLTCIP PREMIUMS

Pricing Assumptions

The goal in pricing long term care insurance is to generate adequate premium for a costly event that may not take place until 20, 30 or even 40 years from the time the person is first covered, while also maintaining affordability over the same time frame. Simply stated, premium rates must be sufficient to pay claims plus expenses, now and over the future lifetime of enrollees. The traditional structure of group life insurance, with premiums that rise each year as a person ages, would be unattractive and impractical for most consumers. Therefore, the industry levelizes the premiums, by averaging the lower cost of coverage associated with purchase at younger ages with the higher cost of coverage associated with more advanced ages.

Calculating long term care insurance premiums involves a series of assumptions which quantify the risk that certain things will happen over the course of time. The key risk assumptions used in pricing long term care insurance relate to claims (i.e. the number of people who will become physically disabled, so as to be unable to perform certain activities of daily living, or become cognitively impaired, so as to be incapable of independent living), investment results, lapse results (i.e. the number of insureds who will voluntarily lapse their coverage without making a claim), and mortality (i.e. the rate at which people will die and therefore not require benefits). To illustrate actual experience,

lapse and mortality assumptions are sometimes combined as aggregate termination (or, conversely, persistency) experience.

Although the FLTCIP is not required to follow state insurance regulatory guidelines, OPM recognized the value of the NAIC rate stability provisions and required from the outset of the Program that FLTCIP premiums be set according to such provisions. While such provisions do not completely eliminate the possibility of future rate increases (i.e. they do not guarantee that experience won't be more than moderately adverse), we do believe they will be effective in reducing the likelihood of premium increases.

The original pricing of the FLTCIP in 2001 was done by John Hancock and MetLife with the services of a nationally recognized actuarial consulting firm. The pricing assumptions were validated by an independent actuarial firm and approved by OPM.

Reasons for the Premium Increase

As experience began to emerge over the first seven years of the Program, it became apparent that some of the key assumptions used in developing premium rates in the first contract period were inconsistent with actual experience. In particular, enrollee persistency has been significantly higher than expected, even though a higher persistency rate had been assumed in pricing than what was generally used throughout the industry at the time. Persistency is the combination of both lapse rates and mortality rates. This means that there will be more insureds reaching the ages where claims rapidly increase than was originally expected.

Another factor contributing to the need for a premium increase is the fact that investment experience has been worse than expected, a consequence of the low interest rate

environment that evolved shortly after the Program began in 2002. Return on invested premium is a critical factor for premium rates. The fixed interest nature of the FLTCIP investment portfolio meant that assets were sensitive to interest rates. In recent years, the average return on long term bonds has been low by historic standards The overall result is that the assets in the portfolio did not increase sufficiently to meet pricing objectives.

Importantly, FLTCIP claims experience to date has been well within pricing assumptions. This is a good indication of responsible and effective underwriting. Further, expenses have been rigorously managed over the course of the contract period, and have been consistently within budget.

While it is still early in the program, it is evident that the long term experience of the program will be more than moderately adverse compared to the underlying assumptions used in the original pricing. In order to assure that there is enough money to cover the claims that are now expected to be incurred, it became necessary to revise some of the assumptions based on actual Program experience. These changes in assumptions have resulted in an adjustment in the premium rates for certain plan designs and age groups. The overall average premium rate adjustment is about 16% for the group as a whole with individual rates being adjusted from 0% to 25%. For enrollees who are subject to a rate increase, the average amount of the increase is approximately $29.00 per month.

There is no increase for enrollees who bought plans with a Future Purchase Option. For enrollees who bought plans with an automatic 5% compound inflation option, rates are being increased by 25% up through issue age 65 and then grading to no increase for

issue ages 70 and above. In order to minimize the impact on insureds, John Hancock lowered the fees to the Program by about 35%.

Changes in assumptions to investment returns, mortality rates and lapse rates have the greatest effect when applied over a long period of time (due to the annual compounding effect), which is why they have a bigger impact on younger issue ages and plans with automatic inflation increases, where there is a longer period of time between when premiums start and when the majority of the benefits will be paid.

It is important to note that on a cash basis, the FLTCIP has more than adequate reserves to meet all obligations in the short term. The market value of FLTCIP assets under management exceeded $1.72 billion at the end of August 2009. The shortfall being described pertains to long term adequacy in a program designed to serve its members for decades into the future. FLTCIP liabilities are required to be funded so that assets will be in place to cover all Program liabilities whenever they occur. This is different from public programs like Medicare, Medicaid, and Social Security, which are pay-as-you-go, with current beneficiaries depending on the tax revenues generated by persons who are actively-at-work. It is also different from defined contribution benefit programs like 401(k) retirement plans, which make no guarantees as to how much they will pay out down the road. Because the FLTCIP must be funded, rates must reflect not only the actual experience that has occurred since the Program began in 2002, but also the significant amount of expected future experience that has not yet unfolded.

Enrollees Can Avoid a Premium Increase

In recognition of the fact that some enrollees may find this increase in premium unmanageable, we developed an option that allows every affected enrollee to

avoid an increase in premium altogether by switching from a 5% annual benefit increase to a 4% annual benefit increase. This alternative is unique among rate increases undertaken thus far in the industry, in that it allows every enrollee to retain the core value of his/her current plan design, while still avoiding the rate increase. Making this change would not decrease current benefit levels, nor would it affect such key provisions as covered services, levels of reimbursement, waiting periods, exclusions, care coordination, or other important provisions. Going forward, the Daily Benefit Amount (DBA) and corresponding lifetime maximum benefit would increase at 4% compounded annually, rather than the current 5%. Most enrollees who make this change will actually see a small increase in their DBA, as a starting point, while still paying substantially the same premium as they do currently.

We recognize that the impact of this change on the value of enrollees' coverage in the future is a legitimate concern. Inflation protection is a key component of any long term care insurance plan, and the ability of the plan to keep pace with the cost of care – while remaining affordable – is critical to the Program's overall value. While the past is not necessarily a predictor of the future, the John Hancock 2008 Cost of Care Survey reports the six-year compound average annual growth rate in the cost of various types of long term care services, ranging from 1.4% to 4.0%. Similar and more recent results can be derived from the 2005 through 2008 annual surveys of long term care costs conducted by MetLife's Mature Market Institute, with derived three-year compound average annual growth rates ranging from 1.4% to 2.8%. The data from these surveys suggests that the 4% annual benefit increase provides meaningful protection from increases in the cost of long term care services over time.

ENROLLEE DECISION PROCESS

Communication Campaign

John Hancock, Long Term Care Partners and OPM have developed a communication strategy for current enrollees to help them evaluate their options and choices going into the second contract period. The 224,000 current enrollees were sent a General Notification letter in August 2009, that contained information about the new contract and what they could expect over the upcoming weeks and months. The messaging of the mailing indicated that: (1) the new FLTCIP contract was awarded to John Hancock, (2) all existing coverage will continue, (3) there will be a premium increase for certain enrollee classes, but there will be premium-neutral options available, (4) new benefit options will be introduced, (5) Frequently Asked Questions (FAQs) with additional information are posted on www.LTCFEDS.com, and (6) contact information for the Long Term Care Partners Customer Support Center. Enrollees were advised that a personalized options package would be mailed to their homes in the Fall.

Key factors in an effective communications and enrollment campaign include clear and explicit descriptions of the choices and options, sufficient time to digest them, and a firm deadline for making the decision. A deadline creates the necessary urgency to encourage action on the part of enrollees, and an end to the process. Our extensive experience in the group long term care insurance market has taught us that: (1) it is important to allow at least 30 days for the decision process, to enable enrollees to consider their options, and (2) regardless of the amount of time that is allowed, activity tends to be concentrated around the deadline.

LTCP will begin mailing options packages to enrollees on Tuesday, October 13th, and the mailing will continue through October 30th. The Decision Period begins on October 30th, and officially concludes at the end of the Federal Benefits Open Season on December 14th. This date was selected to minimize confusion among eligible federal employees by having the same deadline for all annual benefit decisions. It allows at least five full weeks for each enrollee to make a decision. Further, there will be an unpublished grace period that will extend well past the deadline. The grace period will enable enrollees who missed or ignored the mailings (and, consequently, whose first indication of the rate increase is a higher deduction in the first January pay period or a higher direct bill) the opportunity to take action and change their coverage. LTCP will assure that extenuating circumstances are considered and that every affected enrollee has an opportunity, within a reasonable timeframe, to avoid the rate increase.

Personalized options packages will contain:

- Specific premium increase amounts for enrollees in affected classes
- Personalized options for each enrollee
    - all options are available with no underwriting required
    - enrollees receiving a premium increase can:
        - accept the increase and keep their current plan as is, or
        - stay in their current plan at substantially the same premium by changing from 5% automatic inflation to 4%, or
        - move to the new plan at the new cost basis.

Enrollees not subject to a premium increase can also move to the new plan, and all participants will be provided with instructions about how to make other plan increases or decreases.

The Decision-Making Process

A multi-media approach to communications and decision-making support has been designed to provide information in a form that meets the needs of each enrollee. Print information will be provided in the options package, including an Outline of Coverage, inflation charts and statistics, and a comparison of the current and new plans. Online resources will be available at www.LTCFEDS.com and includes new plan information and other reference materials, FAQs, and inflation option comparison tools. And a dedicated team of experienced customer service representatives will be available at the toll-free number, 800-LTCFEDS.

Enrollees will be able to make their decisions in the medium in which they are most comfortable. Choices can be submitted by mail or fax, using a response form that is included in the options package. Selections can also be made online, by registering on www.LTCFEDS.com and making an option selection. Enrollees can also model other decreases online. Finally, enrollees can speak with a customer service representative for assistance in completing forms, and can make FLTCIP 1.0 premium-neutral decisions over the telephone.

During the Decision Period, special underwriting rules apply for employees and their spouses, allowing them to increase their coverage using an abbreviated application. Annuitants and qualified relatives can increase their coverage using a full application. All enrollees can model other decreases in coverage.

Customer Service Support

Customer service is provided by an experienced team at Long Term Care Partners, supplemented by an established, outsourced call center vendor to handle high call volume. This vendor has previously supported three Federal Dental and Vision Program (FEDVIP) Open Seasons since 2006. Additional Long Term Care Partners staff has also been hired to provide escalation support. Staffing assumptions include 90% of calls answered within 90 seconds and an average call length of 12 minutes. Current staffing of 362 full-time representatives can support 160,000 calls, available from 8:00 am to 7:00 pm, Monday through Friday.

Customer service representatives undergo a comprehensive training program, beginning with 10 days of training when first hired, and continuing with ongoing training as needed, interactive role playing and testing, web-based training tools and live service monitoring.

Confirmation of Benefit Decisions

At the end of the Decision Period in December 2009, all 224,000 enrollees will receive a confirmation package. Enrollees who make a plan change, either moving to the new plan or changing benefits within the current plan, will receive an updated benefit booklet and schedule of benefits. If they so choose, they will have 30 days during which they can change their minds and revert back to their previous coverage or choose another available option. Enrollees who do not make a change during the Decision Period will receive a confirmation package that includes an updated benefit booklet and schedule of benefits. Confirmation packages provide required documentation as to choices that were made during the Decision Period, and, for those who overlooked the opportunity to avoid rate increase, serve as an additional vehicle for reiterating the results and consequences of failing to take action.

JOHN HANCOCK'S COMMITMENT

Long term care poses the largest unfunded liability facing the American family today. The high cost of long term care services is becoming better known than it was 20 years ago, but it is still not universally recognized. The vast majority of the nation's long term care bill is assumed by Medicare and Medicaid, with the second largest portion paid for out-of-pocket by families. Fewer than 10 million people have private long term care insurance coverage, and the enormous baby boom generation – over 78 million – is nearing retirement. With the wave of aging baby boomers heading into retirement, long term care insurance will undoubtedly play a significant role in their financial plans for the future. The demand for long term care services will grow as people age, but we know that baby boomers have not saved enough to cover their long term care costs. In fact, we know that many people are not saving enough to cover their normal costs in retirement without a long term care event. Perhaps that is why more and more financial planners are beginning to discuss long term care insurance with their clients and integrate it into their financial plans.

When Congress passed the Long Term Care Security Act of 2000 (public law 106-2650) establishing the FLTCIP for the Federal Family, it was hoped that such a program would not only help federal employees and annuitants to finance the cost of their long term care, but also send a signal to all Americans to consider carefully the risks of long term care in their retirement planning process.

John Hancock believes that private insurance will play an increasingly important role as a source of funding for long term care needs in the coming years and that the reasons for which the Federal Long Term Care Insurance Program was established are more

valid than ever. It is our intent to retain our leadership position in this arena by continuing to develop products that meet consumer needs and by delivering on our promises at time of claim. Our commitment to protecting the interests of our more than 1.2 million in-force long term care insurance policyholders, including those of the Federal Family, and all future policyholders is unequivocal.

Thank you, Chairman Kohl and Chairman Akaka, and members of the Committees, for the opportunity to speak to you today and to offer this testimony. I will be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Ms. Harrison.

We will now turn to the panel for questions. Senator Akaka?

Chairman AKAKA. Thank you very much, Mr. Chairman.

Mr. Green, how long have you been with OPM?

Mr. GREEN. I have been with OPM 37 years, sir.

Chairman AKAKA. How long have you been in this Deputy Associate Director position?

Mr. GREEN. Since 2005.

Chairman AKAKA. As early as the status report for fiscal year 2004, the provider told you that the program had a deficit that had grown from the prior year. This trend continued.

My question to you is, why is Congress just learning of these serious problems this year?

Mr. GREEN. Well, sir, first of all, OPM did inform Congress in 2007 that rates may have to be increased with the new contract term.

But more broadly, the answer is that we dealt with assumptions that were believed to be valid at the beginning of the contract term. The actual experience was worse than anticipated. We did not know, and our contractor did not know, whether this was a temporary or long-term condition. Changing the rates while they were still fluctuating and uncertain would have been a disservice to all concerned, especially our enrollees.

So it was not until we determined that, not only was the experience worse than anticipated, but it was likely to stay that way, that we decided a rate increase was needed even if experience turned for the better. In late 2007 and on into the later years, as the contract was coming to an end, we decided it was appropriate at that time to come up with a new benefits structure going forward and to deal with the rate issue for current enrollees.

Chairman AKAKA. Ms. Harrison, as was discussed already, John Hancock was awarded the next 7-year contract for this program. You testified that changes in certain assumptions were needed.

My question to you is, what changes in investments, assumptions, and program benefits are you making to ensure that additional premium increases of this kind will not be necessary?

Ms. HARRISON. When we initially priced the product, we were using our best estimate of assumptions at that particular time. As we saw the experience coming out over the years, there were two things that we primarily noted. Termination rates which were based on population's mortality and lapse rates had deteriorated, as had the investment experience.

When we priced for the second contract, we ensured that we used what we have learned from the past 7 years, that we used expectations in terms of where we think those assumptions will be in the long term. At this point, we have priced, assuming that we will not have another rate increase, but if assumptions change, there is a possibility that there may be one in the future. However, we have priced right now assuming the current premiums are correct.

Chairman AKAKA. Thank you.

Mr. Green, according to GAO, State programs faced with a large premium increase have varied in how they handle the situation. Some States have raised premiums by a smaller amount over a few

years to make it easier for the enrollees to handle, while others have imposed the full increase at one time, as OPM has done here.

Please discuss why OPM decided to impose a large, one-time increase rather than phasing smaller increases over several years?

Mr. GREEN. Yes, sir. The primary reason for that is that we were not sure 2 or 3 years ago, and our partners were not sure 2 or 3 years ago, that a rate increase was needed at all. We did not have enough experience over the short term of this contract in order to be certain that the adverse conditions we were seeing would continue. It was the recommendation of the contractor, which OPM accepted, not to increase rates at all at that time. It was only in the past year or so that it was determined that conditions were such that, even if they improved, rates would have to go up.

Chairman AKAKA. Mr. Joy, you said in your testimony that you were not aware that your premiums could rise when you signed up for the program and chose the Automatic Compound Inflation Option. After taking a look at the documents that you were given when you signed up, I think that conclusion was quite reasonable.

I would like you to talk about what this premium increase or lowering the benefit inflation rate would mean for you and for other policyholders faced with that same choice.

Mr. JOY. Many persons chose this policy knowing that it would be a stretch, but they thought over time it would go away. It is sort of like, well, your mortgage in effect keeps going down. The problem is that we feel like we're getting our mortgage refinanced at a higher level by the company here, and in point of fact, instead of living with that stretch of that high mortgage for a while, it is going to now be forever and maybe get beyond control. At a certain point, especially given that this is going to happen—according to, again, OPM Director Berry on September 9th on National Public Radio—said this is going to happen every time.

So I cannot take 25 percent increases every 7 years, not at the rate I have paid. On the other hand, lowering the benefit—well, if that is just the mirror image, the left-right image. If I am going to pay the same amount that I am stretched for now, but I am going to get less and less and less over time, then why am I paying it? What is going to happen is a lot of people are going to lapse and that is going to do everybody a lot of good because then those benefits will never have to be paid out, but the premiums will have been paid in.

So that is why there is an equity issue here that has to be addressed, and I would emphasize again we are not talking about a difference between the large print and the small print. The Outline of Coverage document does not say that that particular paragraph they are citing as the reason applies to the ACI one. It is only referred to within the FPO one. So I had no reason to think otherwise, and that is why I am stretched. That is why I made the decision to be stretched like this.

Chairman AKAKA. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Ms. Harrison, I have to tell you that I thought that your testimony here today is as misleading as these marketing materials. Twice you said that you would allow enrollees to avoid an increase

in premium by switching from the 5 percent annual benefit increase to a 4 percent increase, and twice you said this change would not decrease current benefit levels. Well, of course, the key word there is "current." For about one year, there is no change, but after that there becomes a huge change.

Let me give you an example. If an individual enrolls in this program at age 40—and after all, we are trying to encourage people to plan—and then pays into this program for 40 years, which is about the time that you would expect someone to need long-term care at age 80, then rather than receiving $1,056 as the daily benefit that they would have received under the 5 percent compound formula, instead that individual is going to receive a daily benefit of only $720. That is almost a third lower.

So when you twice say today that you can switch, you can switch, it is not going to affect your current benefits, it is not going to affect your core plan design, your core benefits, your coverage services, I think that is extraordinarily misleading because, in fact, very quickly there is a considerable delta that opens up as a result of going from 5 to 4 percent. That may sound like it is minor, but because of the way compound interest works, that is not minor at all.

I am discouraged to hear you give those blithe assurances today when, in fact, a third decrease to Mr. Joy is going to make the difference between whether he can afford the nursing home if, God forbid, you end up in one, or whether his family members or the Medicaid program are going to have to pay for his costs.

So I feel, listening to your testimony today, that your company has not learned anything. You are still misleading people. I would ask you to respond to that. Do you not think that is a big difference?

Ms. HARRISON. My response is, in terms of what 5 percent compound inflation is trying to do, is that is trying to maintain your benefits over time. If you have a $100 daily benefit today, it wants to make sure that in the future when it is time to pay the claim, that you have still that core benefit of $100. So it really is trying to—the idea of 5 percent compound is that it is increasing your benefit to reflect what inflation is doing and what the cost of care services is doing.

The 5 percent compound was introduced several years ago as an indication of what inflation would look like. Whether it is 5 percent, 4 percent, 3 percent, no one really knows what the right number is, but I would say that the cost of care over the last several years has been trending anywhere from 1.5 to 4 percent.

So we think that 4 percent is a fair inflation rate to apply to this, and some people may even argue that at 5 percent you are actually overpaying for what it is that you are trying to maintain core benefit.

Senator COLLINS. I can tell you that if you told seniors or if you told Federal employees today, as you did, that you can change from 5 to 4 percent, it will protect your core benefit, there will be, quote, no change in current benefit levels, they would think, well, wow, that is a good deal. If you told them, however, that if they went from 5 to 4 percent, 40 years from now, that the difference is they

are going to be getting a third less, that is a totally different impression.

Let me, before my time expires, go to the brochure materials that Mr. Joy and everyone relied upon who chose this plan. As he has pointed out, it even says that there will be no, with capital letters, no corresponding increase in your premium. Do you think that this is a fair representation of the product?

Ms. HARRISON. I think in our attempt to try and distinguish between the two inflation options, which were the Future Purchase Option and the 5 percent Compound, that the text was trying to get at is that with the Future Purchase Option that your premiums are going up as you utilize the FPO in the future, whereas with 5 percent Compound, as that inflation option increases, your premiums would not increase. I do think that it caused a lot of confusion, and I do regret that. I think there are other places where it is clear. That was probably not one of them.

What we have done going forward in the second contract term is to ensure that all the language is very clear so that people understand that distinction.

Senator COLLINS. Ms. Senkewicz, my time is expired. Let me ask you the same question. Do you think that this document is misleading to consumers?

Ms. SENKEWICZ. Ma'am, Mr. Chairman, I think that it is pretty evident that a consumer could be misled. I do not think that—just looking at that side by side and overall in the documents that I have seen, it is not set out as clearly as we do in our model and the separate disclosure that you have to read and sign. It says, you know, this product could have an increase in rates. I mean, we were very concerned about that. We worked very hard on that particular disclosure to make sure that it was crystal clear.

Senator COLLINS. But that is nowhere on this document.

Ms. SENKEWICZ. I do not see the little check box in any of the materials that were provided to me by the staff.

Senator COLLINS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Collins.

Senator LeMieux.

Senator LEMIEUX. Thank you, Mr. Chairman.

Mr. Green, this document that we are talking about that is up there on the board next to you—who was responsible for creating this document?

Mr. GREEN. The Long Term Care Partners created it. OPM approved it.

Senator LEMIEUX. OK. The Long Term Care Partners—that is separate from John Hancock?

Mr. GREEN. It is a subsidiary of John Hancock.

Senator LEMIEUX. Are they here today?

Mr. GREEN. Yes. Well, represented by——

Senator LEMIEUX. Ms. Harrison?

Mr. GREEN. Ms. Harrison.

Senator LEMIEUX. OK. Let me just change if I can.

Ms. Harrison, Long Term Care Partners, a subsidiary of John Hancock, came up with this document?

Ms. HARRISON. That is correct.

Senator LEMIEUX. When did you realize that the information that was contained in this document was no longer accurate? You meaning John Hancock or Long Term Care Partners.

Ms. HARRISON. I think it has become very clear that with the rate increase, that there was a lot of confusion over the document.

Senator LEMIEUX. When did you understand that there was going to have to be a 25 percent increase or any increase?

Ms. HARRISON. The first time that we proposed a rate increase would have been in the spring of 2007.

Senator LEMIEUX. How long has this document been in use?

Ms. HARRISON. Since the beginning of the program.

Senator LEMIEUX. Is still being used?

Ms. HARRISON. No, it is not.

Senator LEMIEUX. When did that stop?

Ms. HARRISON. When we realized that a rate increase was necessary, we stopped actually pushing the program to enrollees. We were not actively using those documents.

Senator LEMIEUX. So as soon as you found out in 2007 that there was going to have to be an increase, you did not use this document anymore?

Ms. HARRISON. I would have to check on the exact date.

Senator LEMIEUX. For the folks that relied upon this inaccurate document, when did they find out that this document was no longer good and that they were going to have to pay more?

Ms. HARRISON. I would assume it was when the rate increase came up.

Senator LEMIEUX. That is just 2009.

Ms. HARRISON. Right.

Senator LEMIEUX. So for two years, people who have been paying into this—$60,000 Mr. Joy says over time—they did not know that this information that they relied upon was incorrect, and still, they made their payments.

Ms. HARRISON. I should clarify that in May 2008, all new enrollees got a one-pager that also talked about the possibility that premiums may go up in the future, and it was also posted on the fedbizops as well.

Senator LEMIEUX. Mr. Green, when did you find out from the John Hancock company or their subsidiary that this information was incorrect?

Mr. GREEN. First, let me correct for the record that this particular document was taken off the market in January 2005. It has not been in use since then.

Senator LEMIEUX. OK. Can you answer my question?

Mr. GREEN. Would you repeat it please, sir?

Senator LEMIEUX. When did you find out that this information was inaccurate?

Mr. GREEN. Before January 2005, in the sense that we did not know that a rate increase would be necessary. We did know as was said earlier, that it does do a good job of explaining in plain language the difference between a Future Purchase Option and an Automatic Compound Inflation Option. It does not do an adequate job of explaining the overall potential for a rate increase, and that was one of the reasons I believe it was taken off the——

Senator LEMIEUX. So 2005 you stopped using this document because you are worried that it is not accurate, that it is not——

Mr. GREEN. It was too simplistic.

Senator LEMIEUX. It says here that you are not going to get a rate increase.

Mr. GREEN. Yes.

Senator LEMIEUX. You figure out in 2005 that is not true anymore?

Mr. GREEN. Among other reasons. I do not know all the reasons it was taken off.

Senator LEMIEUX. So you stopped using. Right?

Mr. GREEN. We stopped using it.

Senator LEMIEUX. So then you sent a letter, of course, right after you found this out to all of the Federal employees who had paid for this telling them that this information was inaccurate and a rate increase was coming.

Mr. GREEN. No.

Senator LEMIEUX. You did not do that.

Mr. GREEN. Because we did not know at that point that a rate increase was coming.

Senator LEMIEUX. So for years, Federal employees, more than 100,000 who chose to do the right thing to get the fixed product, the fixed payment, keep paying in even though you know and John Hancock knows that this information is no longer accurate.

Mr. GREEN. We started using correct information, and we did not know at that time that a rate increase would be necessary.

Senator LEMIEUX. But people like Mr. Joy are still paying in and they do not know that the situation has changed and that the thing they relied upon is not true. Right?

Mr. GREEN. I am not saying it was not true, but it was not complete. It was not accurate. It was not up to our standards.

Senator LEMIEUX. Your benefit increases year after year without causing an increase in your premium. That was no longer true. Was it? Because they were going to get a rate increase.

Mr. GREEN. We did not know they were going to get a rate increase.

Senator LEMIEUX. When did you know that?

Mr. GREEN. As I said, we knew a rate increase would be necessary, or we assumed a rate increase would be necessary late in 2007.

Senator LEMIEUX. Now, I only have a few seconds left, but I want to go back to this point that I talked about in my opening statement. Mr. Chairman, if these Federal employees are given this document that says they are not going to get a rate increase, why should this mistake fall upon them? Why should they have to pay for it?

I applaud the comments of my colleague from Illinois. Why should John Hancock and the Federal Government not have to make up this difference? You know, frankly, heads should roll over this. This is a huge mistake, and we have got 6,000 people in Florida, Federal retirees, who did the right thing and paid into this, who are going to get a 25 percent increase. Why should they pay the burden of the people—for the mistake that others made? It does not make any sense to me. There should not be any increase

in premiums. There should not be any decrease in benefits. If there is going to have to be a change, they should be refunded what they paid in, the difference between this plan and the other variable plan. They should get the difference back. It is not fair to them.

But I appreciate, Mr. Chairman, you having this meeting today on this very important topic.

The CHAIRMAN. Thank you, Mr. LeMieux.

Now we turn to Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman. Let me say again, Mr. Chairman, I think that this highlights the need for your legislation.

I just have a couple of points, having listened to some of my colleagues ask questions.

Mr. Green, I am not clear what is actually going to change at OPM as a result of Chairman Kohl's hearing. What we have heard is that you have got older people who feel they were the victims of a bait and switch process. It really amounts to them like a confidence game.

So could you just outline, since we have been at it for 90 minutes or so, what specifically is going to change at OPM to give consumers a sense of confidence that things will be different?

Mr. GREEN. Yes, sir. Thank you.

First, we have worked very hard to improve the educational materials that will be part of the outreach effort for all enrollees, including the new enrollees we hope will join the program in the second contract year.

Senator WYDEN. So on that point, improve the educational materials, are you saying that on your watch we will not have another situation where there is a big gap between the promotional materials and what the legalese says? I mean, that is what I would call a change in the educational materials.

Mr. GREEN. Yes, sir.

Senator WYDEN. Can you assure us that that will not happen again? There will no longer be a gap between the ads and what the fine print——

Mr. GREEN. That is our absolute intention and that is what we are going to accomplish.

Senator WYDEN. Go ahead.

Mr. GREEN. Let me give you some examples. All of these materials are currently outlined, by the way, on the www.ltcfeds.com website, and they are available on request from Long Term Care Partners.

The new materials disclose that the insurance company reserves the right to increase premiums. The new materials disclose that the premiums are not guaranteed. The new materials disclose this information in many places, including on the pages that talk about the ACI and the FPO options. The first page of the new application discloses that premiums are not guaranteed. The agreement and acknowledgement section of these applications, which I think we have heard about, and which requires the applicant's signature, discloses that premiums are not guaranteed. The new benefits booklet, the contractual statement of benefits, discloses that premiums are not guaranteed on its very first page in addition to disclosing it within the booklet.

In addition, all the new graphs that describe how the ACI option works now clearly state that premiums are not guaranteed. Likewise, the new graphs that describe how the FPO option works also state that premiums are not guaranteed.

Senator WYDEN. So we are not going to see any more of what we are listening to today, gaps between promotional materials and contracts. You have changed the educational materials. Any other steps that the agency is going to take to protect consumers? Any other marketing changes? Anything else that you can outline today to protect consumers?

Mr. GREEN. We are going to do anything we can and everything we can. One of the things Director Berry asked me to share with you today is his willingness and OPM's willingness to work with both the subcommittee and the committee on ways of improving the program, looking at new ideas, better ways of managing the program based on our experience, based on the growth of the experience in the long-term care industry, and working with John Hancock and Long Term Care Partners and all the members on this committee and on this panel. We are open to making improvements in the program.

Senator WYDEN. In your mind, would the program be better off if the consumer had more choices and there was more competition in this sector of health care? Mr. Joy is nodding his head, and I might want to give him a crack at it. But I think one of the things we have learned in health reform is some of the biggest problems take place in health care where you have monopolies and where you have sole source contracts. So do you think more competition, more choice needs to be brought to this area?

Mr. GREEN. I think that that should be looked into. There are differences, though. One of the strenghts of the Federal Employees Health Benefits Program is the amount of choice Federal employees have. If they are not happy with their particular health plan for either the premium increase or for any other reason, such as customer service, they can switch health plans and stay within the program without penalty, without worrying about prior conditions or any of that.

Senator WYDEN. Well——

Mr. GREEN. The difference there, though, sir—excuse me—is that there are 4 million enrollees in the FEHB program. Right now, there are 225,000 enrollees in the long-term care program. Of course, we have many more people who could sign up for the program. It is true. But you would need a large enough pool to smooth the experience throughout that large pool so that no one paid too much because they were in a pool that had higher claims than another pool.

Senator WYDEN. I understand that, and obviously, big pools is a key component of health reform. But OPM went with John Hancock as the sole long-term care policy for the Federal Long Term Care Program. Prior to that, there was Met Life and John Hancock. So look at what we got under this arrangement. So I gather you are willing to look at the idea of increasing more choices as one opportunity to protect consumers.

Mr. GREEN. As one opportunity, yes, sir.

Senator WYDEN. I hope you will.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Wyden.

Senator Kirk.

Senator KIRK. Thank you, Mr. Chairman.

Mr. Green, I was going to ask in testimony that has been offered here was a suggestion that OPM would make available to GAO and perhaps to the Congress the methodology or the assumptions on experiences and claims by which you arrived at premiums. Has that been done? Has that been proffered to either the GAO or the Congress?

Mr. GREEN. I cannot say of my personal knowledge that it has. It is my understanding that it has been provided to staff both of this subcommittee and the committee. If that has not been done, we certainly would be willing to do that immediately.

Senator KIRK. The reason I ask, one of the things I hope, in addition to the chairman's legislation, there will be some lessons learned from this experience. It seems to me that one of them is transparency in terms of the methodologies and how the quantification of different things were arrived at. So those particularly in your agency who have that responsibility—it can be shared so that consumers and Members of the Congress who represent them will have a full understanding of that.

Mr. GREEN. Senator, I assure you lessons have been learned.

Senator KIRK. On that point, one of the things that is of concern—in your testimony you indicated in response to the Senator from Florida that this particular marketing document was pulled or changed in 2005?

Mr. GREEN. Yes, sir.

Senator KIRK. I think I heard you say that one of the things that was clear was, indeed, that premiums may have to be increased. Therefore, this document would not stand the light of day going forward to the present day. Is that right?

Mr. GREEN. That is correct.

Senator KIRK. Did you folks feel that the policyholders at that point, when you knew that there might be or would be an increase in premiums—do you feel responsible to put them on notice that this might be coming up?

Mr. GREEN. We felt that responsibility keenly, sir. What is more, though, we felt a responsibility to make sure we had a contract in place, going forward, and that there were choices available to enrollees that we felt were reasonable, legitimate alternatives instead of merely accepting a rate increase. If that is what they choose to do, that is what they choose to do. But we wanted to provide other options as well. So we felt it was important to have it all laid out and ready so there would not be continued uncertainty.

Senator KIRK. Going back to your comment about you felt that it would be irresponsible not to increase the premiums, let me ask you about the sense of responsibility that OPM has or now feels toward the policyholders who, in effect, were blind-sided, if you will—I am being kind about this—about what they thought they were buying at a higher cost and what they were protecting and now having the rug pulled out from under them. What I am suggesting perhaps, along the lines that have suggested before, is do you feel a responsibility that these folks should be, if not grand-

fathered into the further elongation of an incumbent contract or the next term of the contract or somehow compensated for the monies that have been expended for the guarantees that they are now not going to receive?

Mr. GREEN. First of all, let me say again I am one of those that are experiencing that sticker shock. I did not expect it either. I knew that it was possible, but I certainly did not expect it. No one did. So I understand from a personal point of view, as well as from a professional point of view, that sticker shock, that concern.

However, under current law, all of the costs of the program, both claims and expenses, are to come from premiums in the program. So by law, there is no other source for funding claims than the premiums received from enrollees in the program, which are deposited in the Experience Fund.

Senator KIRK. But I am trying to get at not so much the sticker shock. Everybody, when the price goes up—they do not like it, but they were paying in on a certain premise that was published and marketed to them. So I mean, in another world, you would call it, if not deliberate, it became a deceptive document on which folks relied. So I am wondering whether there is some way to continue the guarantee on which they did rely for some period of time, which would allow them a much longer special decision period so they can plan their lives for the future, or whether we can somehow make them whole for the monies that are out of pocket and for which they will not get the guarantees that they thought they were getting.

Mr. GREEN. Again, sir, OPM does not have the authority under current law to do that. But, of course, we will work with you and with the committee to take appropriate actions for the future.

Senator KIRK. Yes. I would hope we could at least visit the possibility of some sort of recompense for these folks who have been basically wronged by this incident.

I am pretty clear that with the chairman's legislation, along with hopefully more vigilant oversight by OPM, that things will get better in the future. But I really have a nagging concern about the folks who have been wrongly treated under this particular plan, and I hope we can find a way to alleviate that.

Mr. GREEN. I appreciate that, sir.

The CHAIRMAN. Thank you very much, Senator Kirk.

Senator KIRK. Thank you, sir.

The CHAIRMAN. Senator Burris.

Senator BURRIS. Thank you, Mr. Chairman. I would just like to continue Senator Kirk's line of questioning to Mr. Green and to Ms. Harrison.

You said, Mr. Green, that there is no provision in the law to try to do a grandfathering process. I do not see in a rightful judgment how anyone, especially Mr. Joy and all your union members and yourself, who signed up for this program believing that your premiums would not increase and your premiums have increased proportionately at a rate of 25 percent, or if you do not want to do that, they are going to reduce, as Senator Collins just said, how your payout benefits are going to be 40 years from now. I was just wondering whether or not OPM and John Hancock cannot get together and come up with some type of recommendation for this

Congress to do grandfathering for those—well, I guess there are 100,000 and some odd. In Illinois, we got 3,710 employees who are members of this system.

I know what is going to happen when they hear what my position is going to be on this—those Federal employees who put their money into this system and now they are going to get hit. Or just take Mr. Joy who is sitting right here. He said he is going to pay $29 a month. What is that? Another $300 a year, if that is what his coverage is?

Ms. Harrison, Mr. Green, you all ought to get together.

Mr. Chairman, I would like to see your legislation amended that would allow those employees not to have to bear one additional premium payment because of the erroneous information that they were given in this brochure. It borders on almost misleading. We will give you credit for someone saying that this was unintentional.

But now, Ms. Harrison, I am trying to find out what is the difference now between the first plan and the second plan if the premiums are going to go up. That is where you sold the ACI plan. No increases in premiums. So you only got one plan now. Is that correct?

Ms. HARRISON. No. We still have two plans.

Senator BURRIS. So what is the difference between the future plan and the other plan? The premium is going to go up in both of them. There is no fixed payment with no increases.

Ms. HARRISON. There is no fixed payment with no increases. That is correct that both the 5 percent compound and the FPO—if the circumstances are different than what our expectations are—and as I say, we have priced it so that we have the best assumptions today, that there is no guarantee that rates would not go up.

Senator BURRIS. So what is the difference between the plans?

Ms. HARRISON. One is compounding at a rate of 5 percent in terms of the benefits. So it is trying to keep up with inflation.

Senator BURRIS. So you just got one plan. You got a different compounding rate. You do not have two plans. You promoted this as two plans.

Ms. HARRISON. There are two inflation options. So when you see everywhere in the documentation—there is usually a header that talks about inflation——

Senator BURRIS. So you got one plan with two inflation options. You do not have two plans.

Ms. HARRISON. We have two inflation options. That is correct.

Senator BURRIS. So that is the same plan with an inflation option. The other plan said that we would not increase premiums. You do not have that anymore, do you? Do you have that anymore?

Ms. HARRISON. When you say the other plan——

Senator BURRIS. Do you have that anymore?

Ms. HARRISON. I just want to understand the question, sir.

Senator BURRIS. Do you have any more plans that say you will not increase your premiums?

Ms. HARRISON. We do not have any plans where the premiums are guaranteed.

Senator BURRIS. That plan is out. The ACI no longer exists.

Ms. HARRISON. It does actually.

Senator BURRIS. Under you all's interpretation, but it is just a modification of what the rates will be.

Ms. HARRISON. Well, again, I really regret that some of the documentation was confusing. In some spots it was clear that rates could go up——

Senator BURRIS. Ms. Harrison, that is more than confusing. I know you regret it. I know you probably were not there when this was done, but this is unconscionable to do this to Federal employees who have given their life in service to the public. Now they are trying to plan for their long-term care, and because of OPM and you and the other insurance policy, you all put out information to them that is erroneous and they got to bear that burden. I am hoping that that does not happen.

I am going to ask my staff to talk to the chairman to see if we cannot come up with some amendments where you will pay and I do not whether or not the other taxpayers are going to bear this burden or how OPM is going to get any more because they only get it from the taxpayers. I am just wondering whether John Hancock is going to take it out of some their profits because since the insurance company has been making all this money anyway. We can stop this onslaught of our Federal workers to pay this amount of money. It is unconscionable. It is unacceptable. I am not going to sit here and listen to you all say we made a mistake and who is going to bear the brunt of this mistake? Mr. Joy, Mr. Green. They are going to bear this mistake?

Please respond, Ms. Harrison.

Ms. HARRISON. The program is set up very uniquely versus a lot of other group plans. The program was set up specifically so that it was walled off, shall I say, from all of our other business. They wanted to have transparency within the program where all the premiums went in and all expenses came out. That is what has happened.

Yes, there seems to be a lot of confusion, and I admit that there is confusion.

Senator BURRIS. What is the difference? How much money are we talking about here that you are falling short on and that you actuarially calculated out would be a shortfall? What are we talking about in dollars?

Ms. HARRISON. So in 2007, the deficit was $1 billion, and we worked very hard to try and find ways to lower that. We did it by changing investment policy. We did it by updating claims experience.

Senator BURRIS. So you are saying that the money that you collected in premiums and turned around and invested the premium payment—you all fell $1 billion short in your earnings.

Ms. HARRISON. Because of those lapse and mortality assumptions that we talked about earlier.

Senator BURRIS. Because of your—evidently there is another question too about your sophistication in investments and what did you all put that money in. I mean, that is what we have got to look at too. What was the significance of your investing this money that caused you to lose $1 billion in the investment?

The question is, how much premium did you pay out during this period of time? It has only been in existence 7 years, as I under-

stand it. I do not know what has been paid out. How much have you all paid out under this plan?

Ms. HARRISON. In total from a claims perspective, about $83 million.

Senator BURRIS. $83 million, and you got a $1 billion shortfall. No further questions, Mr. Chairman. I hope, Mr. Chairman, that my staff can work with you to see what we can do to prevent our Federal employees—some of them are still working with the hopes that they would have something when they become—in a nursing home or need home care that they would be taken care of. Still they got to pay additional monies. I think that is totally unfair, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Burris.

Mr. Green, we have been led to believe that you over at OPM are thinking about extending that—what is it—December 26th deadline?

Mr. GREEN. December 14th.

The CHAIRMAN. Is that right?

Mr. GREEN. We need a firm date so people will have a time limit. We all need time limits to make a decision and move forward. We know that, in most cases, people wait until the last minute anyway. However, if a person needs more time to make a decision, they can get in touch with Federal Long Term Care Partners and they will be given extra time.

If they do not make a decision, especially those that are subject to the 25 percent rate increase, if they do not contact the Long Term Care Partners, they will be sent a letter at the end of the year reminding them that their rate will be going up if they do not make a change. They will be given another opportunity at that time to make a change.

One more time, if they still take no action, but upon receiving their check at the first of the year and see that the premium increases have gone up and that they have less in their check, they will have an opportunity at that time to contact Long Term Care Partners and do something to reduce that increase in premium.

The CHAIRMAN. Thank you.

Ms. KELLEY. Mr. Chairman, if I could just with all due respect——

The CHAIRMAN. Yes, go ahead.

Ms. KELLEY. The announced open season for these impacted 144,000 Federal employees has been announced on OPM's website that it was going start on October 1st. The last information we can find on the website says the packets will not even been mailed until October 26th. Even the announced period was 10 weeks, which some would argue is not enough time to make this kind of an important life choice decision and to do all the analysis needed. I am sure it took them more than 10 weeks to put the materials together and to tell anybody that the increase was coming.

So I really believe this open season, whatever they are calling it, needs to be extended to give impacted employees the time that they need to get those materials. Even if they mail them October 26th from a mail house, it could take 2 weeks for them to get to the west coast. Now they are telling employees they have 4 weeks, maybe 6 weeks to make that kind of a decision. It is not their fault that

they are in this situation. I just think that is really inappropriate, and I think OPM should be adjusting that timeline and it should not need some congressional action to do that.

The CHAIRMAN. I think you are right, and I thought—and Mr. Green, you can clarify it. I thought I heard you say that you are prepared to extend that deadline.

Mr. GREEN. We are prepared to give individuals more time, yes, sir.

The CHAIRMAN. Are you prepared to extend the deadline?

Mr. GREEN. I am prepared to go back and discuss with staff and with Long Term Care Partners the possibility extending the deadline. December 14th is a good date because it also is the end of open season for health and dental. It is a common date people can understand. So there is some validity in having that December 14th date.

But, nonetheless, we will discuss the feasibility and appropriateness of extending that deadline. Again, listening to people at the table here with me and you, sir, I will certainly take that back.

The CHAIRMAN. Well, we will look forward to hearing from you and your associates pretty promptly on that——

Mr. GREEN. Yes, sir. It will be very promptly.

The CHAIRMAN. When you are not mailing it out until October 26th and people do not get it until the end of the month and then you have a deadline on December 14th——

Mr. GREEN. Yes, sir.

The CHAIRMAN [CONTINUING]. That is not right. I am sure you can understand our concern.

Mr. GREEN. I understand what you are saying, sir.

The CHAIRMAN. That is fixable. Some of the things that have happened here, as we have discussed today, are not nearly as correctable as this. This is something we could do something about, and I think it would show at least the concern we have over the predicament that we are in that caused the hardship to the people, that we want to do everything we can to alleviate it, at least in some small way, by extending that deadline.

Mr. GREEN. Yes, sir.

The CHAIRMAN. That is reasonable, is it not?

Mr. GREEN. I think it is, but I will have to take it back and discuss it with my director and with Long Term Care Partners. But I understand what you are saying and what you are saying is reasonable.

Ms. HARRISON. Mr. Chairman, could I make a clarifying comment?

The CHAIRMAN. Yes, go ahead, Ms. Harrison.

Ms. HARRISON. I just wanted to let you know that although the deadline is December 14th, we have what we call a silent grace period. The reason why we call it a silent grace period is that although it is not announced people have more time if they need more time. The reason we do not announce it is based on our experience in the group business, where we have found that people usually wait until the deadline to take action, and so we wanted to use a deadline date that made sense, and as Mr. Green had commented, it did coincide with the benefit program. But there is time

beyond the stated deadline during which people can make decisions as well.

The CHAIRMAN. All right. Before I ask Senator Akaka to make a closing statement with respect to this hearing, does anybody want to say anything? Go ahead, Mr. Joy.

Mr. JOY. Yes, Mr. Chairman. Let me say again thank you for convening this hearing.

The discussion here of options I think has been something that we have all been listening to very closely, and with respect to the extension of the time, that obviously would be an immediate something maybe to help stop the pain. I am not sure it is going to be a cure-all, but it will help. Everybody on death row will always take a week's extension.

But by the same token, there are, I think, some other forms of equitable relief that need to be considered. One of them clearly is grandfathering. Again, I return to this because there is a little something that is not being said here about the emperor and his clothes. The provision that people are relying upon was not applied, as your documents will see in exhibit 6—or attachment 4 on page 10 of the Outline of Coverage, it was not just that there was some fine print. The fine print was there and it was not connected to this one. But beyond that, that to me means that essentially if it happened four blocks from here, it would have been called theft, but here it is not being called theft.

In terms of fixes, it strikes me that there is a number of them, but one of them—all of which are necessarily mutually exclusive. One of them is, for instance, the—and I am checking my note here. Here it is. One of them is to extend to the policyholders who have paid more than they would have paid an amount that essentially would forward-fund whatever other policy they went to within the one. You could credit with the difference between what they would have paid and what they did pay—excuse me—what they would have paid if they had bought it originally and what they did pay. That would be one way to do that.

What is being proposed, as we understand, it by Hancock is that there will be some options, but not all of them are available. For instance, according to the testimony, if you move to a new plan, you would go to a new cost basis. Well, why is the new plan not available—period—entirely at the old cost basis?

The other thing is this increase that supposedly happened was because returns have been low. Well, I appreciate that, but I have not heard anybody make a pledge that if returns come back, that we are going to, in fact, have premiums lowered. It sort of almost a heads they win, tails we lose because their returns go down, we have to pay more. But if their returns go up, we do not get to pay less. So that structurally is one issue.

A third one is the Federal tax law now says that you can deduct for the cost of long-term care, depending upon your age, varying amounts that you pay for a qualified plan that you are paying under. One way that might be able to be done—and this is, I appreciate, not a tax-writing committee—would be to simply say for any holder of this policy, that they can write off the entire amount of the premium for a 7-year period, essentially this period that people have been suffering. But the point is there may be a tax fix.

Another plan—and I want to turn to 1177. All of the features of 1177, the disclosure, et cetera, are excellent. We would not be here now if we had that disclosure, if we had the model, et cetera. But I do think there is maybe an argument for at least automatically including, via some sort of legislative measure, these existing ACI policies under the State long-term care Medicaid partnerships, just automatically including them. That is possibly another way for recompense.

None of these are mutually exclusive. I am really heartened by so many Senators here in the committee wanting to do something. The only thing I would say is this. You cannot fix it unless you know all the facts, and there is only one way you are going to know these facts. I guess I will special plea for my former employer. GAO needs to be all over this on a permanent basis. That is the only way you are going to get the facts in order to fix it.

Having said all that, the only thing I would add is I think Ms. Baptiste makes a good point. I am not so sure about this patient. I think self-insure is something that also needs to be put on the table and looked at.

Ms. BAPTISTE. Mr. Chairman, I would like to add NARFE's voice to the plea that this deadline be extended and not hidden somewhere in some fine print that you can maybe, if you call up, get an extension. That date has to be changed so that everybody understands it.

Retirees face an extra problem this year in that they get no COLA on their annuity, and they are now faced with these higher costs. They have some very tough decisions to make and it is going to be very difficult if they do not get the information until the middle of November and it is due back by December the 14th. So their needs to be an extension and it needs to be in bold print somewhere. Thank you.

Ms. KELLEY. Mr. Chairman, I would just make one more comment about this. I have to tell you I find it very disheartening that there is a silent, secret extension that employees should know about. One hundred forty-four thousand people should not have to guess if there is some kind of silent, secret extension. Federal employees understand what these deadlines are. They meet them every year for FEHB for dental, for vision. They follow the deadlines. To say that there can be a secret one, I just find that unacceptable.

I would love to know why the materials were not printed in the middle of September so that they were not in the mail and in their hands by October 1st.

So, like I said, without congressional action, I would hope they would just do the right thing on that.

Other than that, back to the solution for all these impacted employees. I think the grandfathering solution is one that should be seriously looked at. NTEU would support providing some assistance to these impacted enrollees. Perhaps Congress could work with OPM to create a process to offset some or all of these increases. Maybe there could be a way found to require the insurance company to create a fund. It does not have to be—it is not as technical as Mr. Green referred to that claims cannot be paid anywhere other than from the Federal Long Term Care plan. This would be

a fund that the insurance companies would contribute to so that relief could be provided in some way, but it could require a mechanism that Congress may have to work with OPM on doing. NTEU would welcome the opportunity to work with you to try to put some fix in place before this really unfair impact hits these employees.

The CHAIRMAN. Very good.

Ms. KELLEY. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Burris.

Senator BURRIS. I think it is important, the fact that $1 billion was lost in the program. So those are the investments which are creating the shortage, and we cannot lose sight on that. That is where the investments that you all made have gone. They lost money.

The CHAIRMAN. Very good.

Ms. Harrison.

Ms. HARRISON. Just a couple of clarifying points, if I may. One is with respect to the Experience Fund and the comment that Mr. Joy made that as rates go up, that the policyholders feel the pinch and that if mortality or our lapse experience went the other way, they would not see the benefit. As I mentioned earlier, this fund is walled off so that if the assumptions change favorably, the money stays in the Experience Fund. It does not come back to the insurance company. So theoretically either premiums could be lowered or benefits could be increased. I just wanted to clarify that one point.

The other point I would make is that, as I said, in 2007 there was a $1 billion deficit in the fund. We worked very hard to get that deficit down to $200 million, with some of the actions that we took, one of them being that we reduced the profit charge that was being paid for by the fund by about 35 percent. As I mentioned, we changed our investment policy, and we also changed our claims assumptions. So we tried hard to avoid a rate increase. That left the fund about $200 million short which is why the premium rate increase became necessary.

The last just clarifying point—and I do not want to make it sound like I am making excuses, but I just thought for the record I should be very clear. In our actual Outline of Coverage, which Mr. Joy was talking about, in the very first section we do refer to see the section entitled Where Your Premium May Change. If you go to that section, there are five paragraphs.

The first paragraph talks about the Automatic Compound Inflation, and it says your premium will not increase due to inflation increases, which is true. Your premium does not go up with the inflation. So that was true.

The second paragraph addresses the Future Purchase Option.

The third paragraph relates to both of them. It is not specific to the inflation options.

Then the final paragraph basically says that the premiums can go up.

So I just wanted to clarify that the fine print does have that. I am not making excuses.

The CHAIRMAN. All right. Thank you so much. Final comment before our closing statement. Mr. Joy.

Mr. JOY. Yes. I am glad we got to this point because this is the one I keep repeating, Mr. Chairman. You will note, if you turn to page 11 of my testimony, attachment 4, which relates to exactly what she just said. There is a "7, relationship of cost of care to benefits", an introductory paragraph. Then a bold print subtitle, Automatic Compound Inflation Option. It talks about it. Then there is a space and then there is another bold one, Future Purchase Option, and another space. Everything below that, there are no more spaces. There are no more side caps. It is within that side cap of the Future Purchase Option and only within that side cap that the phrase, "see the section titled when your premium may change" is found. It is not found in the paragraph with the bold titled one.

So the representation you have just heard from Mrs. Harrison is 100 percent an incorrect reading of the document you have. It is only within the FPO. She says it refers to both, but in point of fact, it is not separated in an extra paragraph outside of the Future Purchase Option. It is wholly contained within the paragraph of the Future Purchase Option and applies only to it.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Akaka.

Chairman AKAKA. Thank you very much, Mr. Chairman, and for inviting the Federal Workforce Subcommittee to join you for this hearing today, as well as our witnesses for participating in this hearing.

This has been a helpful discussion for me, as we review the Federal Long Term Care Insurance Program. It is so important that this program, which is the largest of its kind, serves as a model for other long-term care programs. As we have heard, much has to be done to come to be a model.

I look forward to continuing to work with OPM and also with John Hancock to ensure that this program includes reasonable timeframes for transparency and thoughtful responses to offered options so the program remains stable and affordable for our Federal employees. A decision on the time frame needs to be made as quickly as possible and notification of your decision must be made known to all those who are enrolled in this program.

I want to wish you well. I would prefer that we do not have to do things legislatively, that you do it yourselves and do it correctly in the best interests for our Federal employees. So let us work together to do that.

Thank you.

The CHAIRMAN. Thank you very much, Senator Akaka.

Ladies and gentlemen on the panel, you have really brought a lot of light and thought and recommendations for action to a very important issue, long-term care insurance. So your time spent here has been usefully well spent. We thank you for being here.

This hearing is concluded.

[Whereupon, at 4:35 p.m., the hearing was adjourned.]

APPENDIX

DAN GREEN'S RESPONSES TO SENATOR GEORGE V. VOINOVICH QUESTIONS

Question 1. Your testimony discusses the projected shortfall in funding and need for a premium increase for enrollees who selected the automatic compound inflation option. It is my understanding OPM attributes approximately 80 percent of the need for premium increase to enrollee persistency and 20 percent to investment loss. What factors contributed to the projected shortfall?

Answer. Late in the first contract period, analysis of the Experience Fund indicated a future projected shortfall of monies available to pay claims. Some of the key assumptions used in developing premium rates in the first contract period turned out to be inaccurate for this Program, even though they were intended to be conservative and were consistent with industry practices at the time. For example, enrollee persistency—which refers to the rate at which enrollees keep their coverage rather than voluntarily canceling it—has been higher than expected. In addition, people are living longer than expected when the initial rates were set. Investment experience has also been worse than was assumed in the original pricing. Even if overall trends improve, experience is unlikely to match the underlying assumptions used in the original pricing.

Question 2. It is my understanding that lower than expected lapse rates was common knowledge within the long-term care industry in 2001 and 2002 when the federal program was being crafted. With this in mind, why were OPM's lapse rate projections off by such a wide margin? What assurances can you provide to the Committees and enrollees about the current projections used to set the premium rates in the current contract?

Answer. At the Program's inception, lapse rates were trending lower than previous industry pricing assumptions, and the trend toward lower lapses has continued since 2001. The Request for Proposals (RFP) for both the initial and the second contract required that the carriers' pricing of new policies adhere to the NAIC standard for rate adequacy. That is, the pricing actuary must certify that premiums are, at time of enrollment, expected to be sufficient under moderately adverse conditions. The initial pricing and lapse rate projections were performed by the long term care insurance carriers as part of the competitive acquisition process. For pricing under the second contract, John Hancock used the actual experience of the Federal Long Term Care Insurance Program (FLTCIP) in setting its lapse assumptions. John Hancock's inclusion of actual FLTCIP lapse experience in its new pricing should provide additional assurance about the assumptions underlying the new premium rates.

Question 3. Current enrollees may avoid the premium increase by choosing the "landing spot" and lowering their daily benefit. While the difference is small in the first few years, at year thirty, when the average enrollee will be 88 years old, the difference in the daily benefit amount grows to approximately $160 per day. That's about a $3,200 dollar a month difference—$731 more than the current average monthly annuity for federal retirees.

What has OPM done through its current education campaign to make sure enrollees have a clear understanding of the tradeoffs associated with the "landing spot" and other benefit decisions?

Answer. Every enrollee not currently eligible for or receiving benefits (e.g., not in a nursing home) has received a decision package outlining options for moving to the new plan design or avoiding the premium increase (for those facing an increase). The decision package includes background material illustrating the difference over time between a 4 percent and a 5 percent compound benefit increase. Historical inflation increase data are also provided. Modeling tools are available online to allow enrollees to project the growth of their current daily benefit under each inflation rate. The decision packages also contain detailed comparisons of specific benefits

and the differences between the original plan, FLTCIP 1.0, and the new plan, FLTCIP 2.0.

The materials for the new FLTCIP 2.0 benefits have also been rewritten. They are currently online at www.ltcfeds.com and available by request from LTC Partners. The new materials, both in hard copy and online, provide detailed information and graphs that illustrate the difference over time between 4 percent and 5 percent compounded benefits, as well as detailed information about other benefit decisions.

Question 4. The National Association of Insurance Commissioners suggests that companies who increase premiums meet a minimum loss ratio requirement of 85 percent. Does OPM's current contract with John Hancock meet this standard? If so, how? If not, why not?

Answer. The National Association of Insurance Commissioners (NAIC) determined by the late 1990s that, for long term care insurance, the loss ratio test was not effective. State regulators reviewing policy filings for pricing adequacy were not necessarily presented with an accurate picture and rate increases were becoming more prevalent. To address this, the NAIC created the requirement that company actuaries price and certify that the pricing was done using "moderately adverse" assumptions. The NAIC and various actuarial bodies developed models and tools for actuaries to use, and OPM and its consulting actuaries employ them.

For private policies, when a company increases premiums, a loss ratio limit may be imposed in order to prevent the insurance company from unduly profiting from the rate increase. However, for FLTCIP, all of the premiums collected go into an Experience Fund that can be used only to pay claims and cover expenses and fees for the FLTCIP. The additional premium from a rate increase is deposited in the Experience Fund for use by the Program. Current projections show the rate increase is necessary to ensure the Experience Fund balance will be adequate to pay expected claims, expenses, and fees over the course of time. However, if at some future date the Fund has more money than might reasonably be needed to cover the Program's expected obligations, the surplus would be used to benefit the FLTCIP, not the insurer, via reduced premiums or improved benefits. Moreover, if the Program changes insurer(s), the Fund moves to the new insurer(s).

Question 5. How did OPM use its position as one of the largest administrators of group long-term care insurance to keep premiums low?

Answer. Group long term care insurance has certain advantages over individually sold policies, mostly involving the fact that no agent compensation is paid, enrollment can be administered more easily (e.g., payroll deduction), and the administrative costs are spread over a larger group of enrollees. The Program's experience rated structure is designed to keep insurers' risk charges lower and allow participants to benefit from financial gains the Program might experience.

Question 6. Please explain in detail OPM's decision making process once it received the information from John Hancock on enrollee experience. As part of your response, please provide a timeline for such notifications and the decision-making process OPM followed upon receipt of the information. Please also explain how OPM determined whether or not there was a need for a premium adjustment during the initial contract.

Answer. In February 2005, OPM received MetLife's/Hancock's September 2004 funded status report, which showed a best estimate of a 6 percent projected shortfall. Discussion centered on sensitivity of the analysis to underlying projection assumptions (e.g., claims, lapse rates, investment). Given that this was the first indication of a projected shortfall, that the Program was new, that the investment horizon is long, and that the projections were quite sensitive to assumptions, we did not believe it was prudent to take immediate action.

In April 2006, OPM received MetLife's/Hancock's September 2005 funded status report, which showed a best estimate of a 15 percent projected shortfall. Due to the increase in the projected shortfall, we held discussions with the carriers. MetLife and John Hancock recommended no change to premiums, either for current or future enrollees, but rather continued monitoring to see if the trend persisted. Subsequent conversations included discussions about establishing guidelines for deciding when a rate action might be necessary and possible pursuit of an alternative investment strategy.

In March 2007, OPM received MetLife's/Hancock's September 2006 funded status report, which showed a best estimate of a 32.5 percent projected shortfall. This report included MetLife's and Hancock's first statement of support for a premium adjustment. OPM then entered into discussions with MetLife and Hancock regarding possible adjustments to premiums and contract terms and the timing of any changes. However, the Long-Term Care Security Act provides that premiums may not be adjusted during the term of the contract unless mutually agreed to by OPM

and the carrier(s). MetLife and Hancock submitted no detailed premium proposals at that time.

On June 28, 2007, OPM submitted to Congress its recommendation for the continuance of the Program, as required by law within 180 days of receipt of GAO's second report. The letter mentioned the possibility that a premium increase would be required and OPM's intention to adjust premiums as part of the second FLTCIP contract. Consistent with the law, OPM took no steps to re-bid or otherwise contract for coverage during the 180 days following June 28, 2007. OPM and MetLife/Hancock did not engage in discussions about rate adjustments during this "silent" period.

On September 27, 2007, in accordance with the terms in the first contract, MetLife and John Hancock each submitted policy renewal proposals. These proposals set forth the terms under which the carriers were willing to offer a group policy for the second 7-year contract term. These proposals would have increased premiums by as much as 65 percent for current enrollees, while generally continuing the terms of the first contract for a subsequent 7-year period.

Early in 2008, OPM decided to conduct a competitive acquisition for the next FLTCIP contract. The RFP to compete the contract for the second FLTCIP term was issued in August 2008. Given that we were near the end of the initial contract term, and the new contract would result in new terms and premiums, we did not believe it would be in enrollees' best interest to increase premiums before the new contract—and new product options—was in place.

Question. 7. What assurances can you provide the Committee that premiums will remain affordable beyond 2016, when the contract is scheduled for renewal?

Answer. The goal in establishing the premium rates is to calculate rates that will be sufficient, along with the earnings on the investment of those premiums, to pay claims plus expenses, now and over the future lifetime of enrollees. Calculating premiums requires using a series of assumptions that quantify risk over the course of time. The key risk assumptions relate to claims (how many people will file claims and when and for how long will benefits be paid?), investment results (how much additional funding will be realized by investing portions of the premium?), lapse results (how many people will voluntarily drop their coverage over the course of time?), and mortality (how many people will die while covered?). These risks vary for Program enrollees, depending on their ages when they enroll, and the risks change as people age while enrolled.

OPM requires its insurer to price its premiums for new enrollees according to NAIC rate stability guidelines. It is important that standard rate stability guidelines be applied universally across the long term care industry. Because applicants have a choice between the FLTCIP and other insurers' products, the FLTCIP's products and premiums must remain competitive. If FLTCIP premiums are significantly more conservative than other insurers premiums, the Program is likely to attract a smaller and riskier enrollment base.

COLLEEN KELLEY RESPONSE TO SENATOR GEORGE VOINOVICH QUESTION

Question. How has OPM worked with NTEU to ensure its members have access to the information needed to make informed decisions in a timely manner?

Answer. After the announcement of the new FLTCIP contract last May, and when NTEU became aware that premium increases were likely, we immediately contacted OPM asking for explanations. The agency answered questions, and assembled a briefing for NTEU and other employee representative organizations. While we were not satisfied with the substance of the looming premium increases, we were advised at that time that the agency was taking steps to devise "landing spots" for enrollees to redesign their policies if they later decide to do so. After the congressional hearing, the agency did extend the Early Decision Enrollment Period in keeping with NTEU's request. In general, OPM has been responsive when questions were raised.

MARY BETH SENKEWICZ RESPONSES TO SENATOR GEORGE VOINOVICH QUESTIONS

Question 1. Your testimony discusses the NAIC's supplemental reequirements for consumer disclosure of the potential for future rate increases. Do you believe OPM's prior and current marketing materials meet these standards?

Answer. I have not seen the current marketing materials, staff provided me with the marketing materials used when the program was initially started. In my opinion, the prior marketing materials do not meet the standards set forth in the NAIC Long-Term Care Insurance Model Regulation. Section 9 is entitled "Required Disclosure of Rating Practices to Consumers." This section requires that the insurer pro-

vide the following information: a statement that the policy may be subject to rate increases in the future; an explanation of potential future premium rate revisions, and the policyholder's options should such occur; the rate applicable to the insured until a rate change is effected; a general explanation for applying rate schedule adjustments; and rate increase history of the company for the prior 10 years. The section also requires that the applicant sign an acknowledgement at the time of application (or at delivery of the policy if no agent is involved) that the above disclosures have been made. Last, insurers must give at least 45 days notice to policyholders and certificateholders of any rate increase.

Appendix B to the model regulation is entitled "Long Term Care Insurance Personal Worksheet." Prominently displayed on page one of this document are sections, in bold print, entitled "The Company's Right to Increase Premiums" and "Rate Increase History." On page three of this document, the signature page, is a box which must be checked and the narrative attendant to the box includes the following (also in bold print): "I understand that the rates for this policy may increase in the future."

APPENDIX B

Long Term Care Insurance
Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and **ask** you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers_____

The premium for the coverage you are considering will be [$_____ per month, or $_____ per year,] [a one-time single premium of $_____.]

Type of Policy (noncancellable/guaranteed renewable): _____

The Company's Right to Increase Premiums: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

Drafting Note: A company may use the first bracketed sentence above only if it has never increased rates under any prior policy forms in this state or any other state. The issuer shall list each premium increase it has instituted on this or similar policy forms in this state or any other state during the last 10 years. The list shall provide the policy form, the calendar years the form was available for sale, and the calendar year and the amount (percentage) of each increase The insurer shall provide minimum and maximum percentages if the rate increase is variable by rating characteristics The insurer may provide, in a fair manner, additional explanatory information as appropriate

Questions Related to Your Income

How will you pay each year's premium?
☐From my Income ☐From my Savings/Investments ☐My Family will Pay

[☐ Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?]

Drafting Note: The issuer is not required to use the bracketed sentence if the policy is fully paid up or is a noncancellable policy.

What is your annual income? (check one)☐Under $10,000 ☐$[10-20,000] ☐$[20-30,000] ☐$[30-50,000] ☐Over $50,000

Drafting Note: The issuer may choose the numbers to put in the brackets to fit its suitability standards

How do you expect your income to change over the next 10 years? (check one)
☐No change ☐Increase ☐Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) ☐ Yes ☐ No
If not, have you considered how you will pay for the difference between future costs and your daily benefit amount? ☐From my Income ☐From my Savings/Investments ☐My Family will Pay

The national average annual cost of care in [insert year] was [insert $ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert $ amount] if costs increase 5% annually.

Drafting Note: The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure

What elimination period are you considering? Number of days _____Approximate cost $_____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)
☐From my Income ☐From my Savings/Investments ☐My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)
☐Under $20,000 ☐$20,000-$30,000 ☐$30,000-$50,000 ☐Over $50,000

How do you expect your assets to change over the next ten years? (check one)
☐Stay about the same ☐Increase ☐Decrease

If you are buying this policy to protect your assets and your assets are less than $30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

☐	The answers to the questions above describe my financial situation. **Or** I choose not to complete this information. (Check one.)
☐	I acknowledge that the carrier and/or its agent (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____ _____
(Applicant) (Date)

[☐ I explained to the applicant the importance of completing this information.

Signed: _____ _____
(Agent) (Date)

Agent's Printed Name:_____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My agent has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.

Signed: _____ _____]
(Applicant) (Date)

Drafting Note: Choose the appropriate sentences depending on whether this is a direct mail or agent sale.

The company may contact you to verify your answers.

Drafting Note: When the Long-Term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the page may be removed.

Appendix F to the model regulation is a form that provides information to the applicant regarding premium rate schedules that the insurer may use to satisfy the disclosure requirements concerning explanation of potential rate revisions and the insured's options should a rate increase occur in the future. The form is entitled "Long Term Care Insurance Potential Rate Increase Disclosure Form."

APPENDIX F

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:

Long Term Care Insurance
Potential Rate Increase Disclosure Form

1. **[Premium Rate] [Premium Rate Schedules]**: [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [filed][approved] for an increase [is][are] [on the application][$_____])

Drafting Note: Use "approved" in states requiring prior approval of rates

2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.**

3. **Rate Schedule Adjustments**:

   The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.

4. **Potential Rate Revisions:**

   This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

   If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

   - Pay the increased premium and continue your policy in force as is.
   - Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
   - Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
   - Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

Turn the Page

*** Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the $1,000 annual premium for 10 years, so you have paid a total of $10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or $500 for a new annual premium of $1,500, and you decide to lapse the policy (not pay any more premiums).
- Your "paid-up" policy benefits are $10,000 (provided you have a least $10,000 of benefits remaining under your policy.)

Turn the Page

Contingent Nonforfeiture
Cumulative Premium Increase over Initial Premium
That qualifies for Contingent Nonforfeiture

(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

[The following contingent nonforfeiture disclosure need only be included for those limited pay policies to which Sections 28D(4) and 28D(6) of the regulation are applicable].

In addition to the contingent nonforfeiture benefits described above, the following reduced "paid-up" contingent nonforfeiture benefit is an option in all policies that have a fixed or limited premium payment period, even if you selected a nonforfeiture benefit when you bought your policy. If both the reduced "paid-up" benefit AND the contingent benefit described above are triggered by the same rate increase, you can chose either of the two benefits.

You are eligible for the reduced "paid-up" contingent nonforfeiture benefit when all three conditions shown below are met:

1. The premium you are required to pay after the increase exceeds your original premium by the same percentage or more shown in the chart below;

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

2. You stop paying your premiums within 120 days of when the premium increase took effect; AND

3. The ratio of the number of months you already paid premiums is 40% or more than the number of months you originally agreed to pay.

If you exercise this option your coverage will be converted to reduced "paid-up" status. That means there will be no additional premiums required. Your benefits will change in the following ways:

a. The total lifetime amount of benefits your reduced paid up policy will provide can be determined by multiplying 90% of the lifetime benefit amount at the time the policy becomes paid up by the ratio of the number of months you already paid premiums to the number of months you agreed to pay them.

b. The daily benefit amounts you purchased will also be adjusted by the same ratio.

If you purchased lifetime benefits, only the daily benefit amounts you purchased will be adjusted by the applicable ratio.

Example:

- You bought the policy at age 65 with an annual premium payable for 10 years.
- In the sixth year, you receive a rate increase of 35% and you decide to stop paying premiums.
- Because you have already paid 50% of your total premium payments and that is more than the 40% ratio, your "paid-up" policy benefits are .45 (.90 times .50) times the total benefit amount that was in effect when you stopped paying your premiums. If you purchased inflation protection, it will not continue to apply to the benefits in the reduced "paid-up" policy.

Question. 2. What assusrances can the NAIC provide to federal employees about the value of the landing spot being marketed to current enrollees as a way to mitigate the planned premium increase?

Answer. The NAIC cannot provide any assurances to federal employees about the value of the landing spot. Neither the NAIC nor any state insurance commissioner regulates these policies and as such, have not reviewed the original policy and its benefits or the alternative being offered to mitigate the rate increase.

Additional Questions for the Record for
Marianne Harrison, John Hancock

Joint Hearing – Special Committee on Aging and Subcommittee on oversight of Government Management, the Federal Workforce, and District of Columbia
October 14, 2009

Senator George V. Voinovich Questions:

1. **John Hancock provided OPM with annual reports on the Experience Fund to determine whether the fund was adequate to pay expected claims. Could you share with the Committee the findings from the reports during the first contract period? How did John Hancock determine whether or not to recommend a rate increase during the initial contract period?**

   John Hancock and MetLife, the insurers for the first contract period, provided OPM with annual Funded Status Reports in 2005, 2006, 2007, and 2008, showing valuations as of September 30 of the prior year.

   The Funded Status Report compares the accumulated balance in the Experience Fund as of the valuation date to the amount needed on that date to cover future liabilities of the plan. The estimate of future liabilities is determined by using best estimate assumptions. The difference between the amount available in the Experience Fund and the amount needed for future liabilities constitutes the surplus or deficit of the Experience Fund, as the case may be, and is typically expressed as a percent of the present value of future premiums.

   The actual experience of a LTC plan evolves over a number of years. An important consideration in the early years when reviewing the results of a new plan is the level of credibility of the actual experience. Once the experience is credible from an actuarial standpoint and the results continue to be negative, consideration is given to possible actions – other than raising rates - to decrease a deficit. Also considered are the cost of delaying a rate increase and the possibility that valuable new information will become available.

   The findings for each year were stated in the Funded Status Reports, a copy of which was provided to the Committee on October 13, 2009. In sum, the 9/30/2004 report dated 2/2/2005 showed a 6% deficit. The 9/30/2005 report dated 4/26/2006 showed a 15% deficit, and included a recommendation to modify the investment strategy as a possible alternative to an in-force rate increase. The deficit grew to 32.5% in the 9/30/2006 report dated 3/2/2007, and the carriers recommended an in-force rate increase along with additional actions as it was becoming apparent that the actual experience was inconsistent with the original assumptions.

2. Please provide information on the profit received by Long Term Care Partners, Inc. during the initial contract phase and the scheduled profit margin for John Hancock during the current contract.

The profit formula in the first contract period was a maximum profit of 6.5% of premium plus 0.30% of assets which was shared by John Hancock and Metlife. Of the 6.5% of premium maximum profit, 3.0% was at risk and subject to successfully meeting various performance measures. The dollars of profit earned by John Hancock and MetLife in the first contract period are shown in the table below:

	JH & MetLife Combined Profit		JH & MetLife Combined Profit
FY 2002	351,659	FY 2006	20,451,395
FY 2003	13,119,720	FY 2007	21,924,600
FY 2004	18,128,742	FY 2008	24,022,981
FY 2005	19,419,853	FY 2009	25,000,951

In the second contract period the profit charges paid by the Fund have been reduced to a maximum of 4.0% of premium plus 0.15% of assets. Of the 4.0% of premium maximum profit, 2.0% is at risk and subject to successfully meeting various performance measures.

Other Additional Questions

Q1. Please clarify your statement regarding the $1 billion deficit in the FLTCIP Experience Fund?

A deficit of $1.1 billion dollars was reported in the 9/30/2007 Funded Status Report and represents the amount of additional funds expected to be needed to pay all future liabilities as a result of changes to plan pricing assumptions. It is not the amount of money 'lost' in the first 5 years of the program

The projected shortfall of $1.1 billion was reduced to $200 million through updated morbidity assumptions, changes in investment strategy, and a reduction of program fees as part of the review of the proposed in-force rate increase.

It is important to note that the projected deficit is not attributable to the recent financial crisis.

Q2. Please clarify statements regarding how the marketing materials were developed and whether you think they were wrong or misleading.

The materials were developed in consultation between John Hancock, MetLife, and OPM.

The potential for future FLTCIP rate increases was addressed in materials for Open Season (July 1, 2002-Dec. 31, 2002, during which the majority of enrollees - 81%, representing 182,835 individuals - purchased their coverage) via:

- Open Season kits – more than 1 million sent out (includes Early Enrollment)
  - 4 references (Plan Proposal, Outline of Coverage, NAIC Shopper's Guide, OPM's Companion Guide)
- Stand-alone booklets/brochures
  - 3 references (Benefits Booklet, Primer, Program Overview brochure)
- Seminar presentations (over 2,300 seminars on FLTCIP held during Open Season)
  - 2 references
- Website - averaged 1 million hits per day or 184,000,000 hits overall
  - In downloadable materials and 2 references on screen

We believe the source of confusion about rates was a misunderstanding of the inflation comparisons that were included in the original marketing materials. In the comparisons, the description of the Automatic Compound Inflation (ACI) Option states that coverage automatically increases annually, without a corresponding increase in premium.

This statement was intended to illustrate the level premium nature of the ACI Option versus the escalating premiums of the Future Purchase Option (FPO), which takes a "pay as you go" approach. That is, under the ACI option, the premiums do not increase each year to pay for the corresponding increase in coverage, as compared with the FPO option where the premiums do

increase with every increase in coverage. While the statement in the materials is accurate, we acknowledge that some people interpreted it to mean something different - that their premium rates were locked in and could not be increased for any reason. As noted above, the possibility that premiums could increase was noted in a number of other places. It should be noted that, as of November 2009, fewer than 4% of the calls received by Long Term Care Partners this fall from Federal enrollees affected by the rate increase have had a complaint about the rate increase. In fact, several have acknowledged that they were aware of the potential for future rate increases.

We have taken steps to ensure this type of misunderstanding does not reoccur during the second contract period. In all new materials, we have prominently displayed that enrollee premiums are not guaranteed, that they may, in fact, change and that OPM must approve any increase in premium during the contract term. We also reworded the Automatic Compound Inflation Option level premium references to provide additional clarification.

Q3. Please clarify the significance of the FLTCIP 7-year contract term. Does it automatically mean premiums will be re-negotiated and rates will go up every 7 years?

The 7 year contract term is required by the enabling law that gave rise to the FLTCIP. It does not mean that premiums will be re-negotiated and increased every 7 years. The pricing for the FLTCIP is not based on a 7 year term, but is intended to be adequate for life, although not guaranteed. The need for a rate increase is not related to the 7 year contract term; it is based on a change in actuarial assumptions and was confirmed by an independent actuarial firm hired by OPM.

Q4. Can you provide more detail about how the Program was priced?

The experience fund is projected over the life of all participants taking into account future premiums, investment returns, benefits, expenses and fees using our best estimate for future mortality, lapse, benefits, expense and investment returns. Premiums are set so that the experience fund should be sufficient to pay all benefits, expenses and fees under moderately adverse experience, assuming no future premium increases.

For the second contract period, we nearly doubled the margin for future adverse experience on in-force business by reducing our fees by over one third.

AFSCME
We Make America Happen

Statement For The Record

of the
American Federation of State, County and Municipal Employees
(AFSCME)

before the

Special Committee on Aging and the
Committee on Homeland Security and Government Affairs
Subcommittee on Oversight of Government Management, the
Federal Workforce and the District of Columbia

United State Senate

On

Long-Term Care Insurance

October 14, 2009

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

Statement for the Record
of the
American Federation of State County and Municipal Employees (AFSCME)
before the
Hearing before the United States Senate Special Committee on Aging and the Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia
United State Senate
On
Long-Term Care Insurance
October 14, 2009

The American Federation of State, County and Municipal Employees (AFSCME) submits the following statement for the hearing record.

AFSCME is a labor organization that represents over 1.6 million workers, including federal employees at the Library of Congress, the Department of Justice, the Department of Agriculture, the Federal Aviation Administration, the Peace Corps, the Corporation for National and Community Service, the U.S. Commission on Civil Rights, the Voice of America and the Architect of the Capitol.

Many AFSCME members are part of the estimated 215,000 federal employees that purchased a Long-Term Care Policy from Long Term Care Partners (LTC Partners), a joint venture of John Hancock and Met Life, with an informed understanding that their rates and benefits would remain constant. This understanding was based on the receipt and review of brochures and policy booklets provided by LTC Partners at the time of sale and in some cases information briefings held by their respective Human Resources Departments. The brochures, policy booklets, and briefings did not describe the plan's premium rates as effective for only seven years or indicate that at the end of the seven-year term the premium rates would be reevaluated.

The Library of Congress Professional Guild, AFSCME Local 2910, represents over 1,600 employees at the Library of Congress (LC). When employees of the Library learned of the premium increase, they contacted the LC Human Resources Department. The immediate response from the Benefits Coordinator was that the rates for the plan were fixed and no rate increase would take place. The Human Resources Department later contacted the Office of Personnel Management and was told that the rates would not increase. Individual employees, however, received contradicting responses when they contacted LTC Partners directly.

AFSCME appreciates the Special Committee on Aging and the Committee on Homeland Security and Government Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia joint investigation into this matter. Our members are very upset. When they purchased Long-Term Care Policies years ago, they were not told nor given information, even with the smallest of fine print, which said the rates and benefits were subject to reevaluation. Simply put, LTC Partners withheld key information about

the plan at the time of sale. To allow LTC Partners to change the rates and or benefits of their Long-Term Care Policies after hundreds of thousands of federal employees purchased a plan they reasonably perceived to remain constant and paid for throughout the years is unacceptable.

AFSCME requests the immediate postponement of the implementation of the rate increase. Furthermore, we ask that all federal employees who purchased the plan without knowledge of the rate's limited term of effectiveness be exempt from any future rate increases.

Daniel De Simone

415 Seventh Street S.E.

Washington, DC 20003

Statement on Long Term Care Insurance by Daniel De Simone, Curator at the Library of Congress, before the Select Committee on Aging and the Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, United States Senate, Washington, DC

October 14, 2009

I would like to thank the two Committee Chairmen of this joint hearing, Senators Herb Kohl and Daniel Akaka, for the opportunity to submit testimony on the subject of Long Term Care Insurance. The issue before you is important to the federal workforce for many reasons, not the least of which is the credibility of OPM and the numerous federal human resources divisions which administer federal human resource policy.

I would also like to thank Saul Schniderman, President of the Library of Congress Professional Guild, AFSCME 2910 and Andrea Dibitetto, Legislative Affairs Specialist of AFSCME, for their support over the past few months.

In January 2002 my wife and I purchased a Long Term Care Policy from Long Term Care Partners, a joint venture of John Hancock and Met Life. At the time we had just moved my mother-in-law into the Alzheimer Unit at Godwin House in Alexandria. She had been suffering from the disease since 1994 and had been living with us in our home until it was no longer possible to care for her properly. During the eight years we took care of her we became extremely well versed in the costs of long term care, as we witnessed the evaporation of her savings, and as we paid for her bills that were not covered by insurance. We became familiar with the requirements for Medicare and Medicaid and considered ourselves educated consumers of medical insurance products.

The experience of caring for my mother-in-law taught me two things. First, since we had no children, my wife and I would probably need a long term care solution. Second, it had to have a predictable cost.

When the Federal Long Term Care Policy was introduced we took a very close look at its requirements and benefits. We realized from experience that all insurance policies have limitation and we looked with care at the policy the Library of Congress was offering.

I attended the programs where the Long Term Care policy was touted by the Human Resources staff of the Library of Congress and listened carefully as the benefits of policy were explained. I read the brochure that was provided by Long Term Care Partners which explained the fine print of the policies limitations. The policy seemed to cover the two criteria that were important to us.

There was never a mention in either the briefings or the brochure that this policy was only in effect for seven years or the statement that at the end of this contract period premium rates would be reevaluated. Believe me I would have noticed this and would have decided to wait to see how the program developed before putting down my money.

In any event, I bought the policy for my wife and myself and have been paying into it for the past seven years.

On August 13th, Joe Davidson of the Washington Post published an article in his column, *Federal Diary* describing the premium increases that OPM authorized for the Federal Long Term Care Policy that according to GAO estimates in 2007 has been purchased by over 215,000 federal employees.

The article feature Chester and Donna Joy, retired Federal employees, who protested this increase and contacted both the Post and Eleanor Holmes Norton about what they saw as a fraud being conducted on the federal employees who purchased policies. According to the Joy's they purchased the policy with the understanding that the rates would remain constant and that was their reason for entering the program.

Library of Congress employees who read the article began to compare notes and found that they too purchased the policy with the understanding that the rates would not change. We contacted the Library of Congress representative of AFSCME and began examining the policy more closely and asking how, after exercising due diligence when examining the policy, no one was aware that the policy had a life of only seven years and was up for renewal in 2010.

When the Library of Congress Human Resources Department was asked about this situation, the immediate response from the Benefits Coordinator was that rates were fixed and there would be no rate increases. This response reinforced the perception of LC employees and we realized that the confusion about the policy existed not only by policy holders but also by administrators.

To gain clarification, HR contacted OPM who manages the LTC program for federal employees. HR responded to me that they were told by OPM that Library of Congress employees would not receive a rate increase. When I contacted Long Tern Care Partners they contradicted the statement of OPM and confirmed that there would be an increase in premiums.

The confusion generated by these exchanges reinforced suspicion that something was terribly wrong with OPM's decision to grant a rate increase. Nothing in the LTC policy booklet issued to policy buyers mentioned a seven year contract or that a new contract would be awarded at the end of the first contract period.

After canvassing Library of Congress policy buyers it was found that not one policy holder was

aware of the seven year term of the contract. As mentioned, this also included those responsible for the sale and administration of the policy, the Benefits Coordinator for the Library of Congress.

To drive home this point, the Committee should know that that the Director of Human Resources at the Library of Congress bought a long term care policy thinking that the rates were fixed. I was told this last week, that he too was unaware that the policy would be reviewed after seven years and premiums increased.

In self defense, Library of Congress employees began to reach out to other federal employees and found that the NTEU (National Treasury Employee Union), Representative Eleanor Holmes Norton, the Subcommittee on Federal Workforce, Post Office and the District of Columbia, House Oversight and Government Reform Committee and the Special Committee on the Aging were all fielding questions about the rate increase.

Remedies were being proposed that included the postponement of the implementation of the rate increase. In addition, a call was being made for an investigation that would examine OPM's marketing of the policy to federal employees to see how so many were led to believe that there would be no rate increases over the life of the policy (see GAO report cited below.)

Finally, a remedy was being drafted that would exempt all federal employees who purchased the policy under the terms of the original contract, from any rate increases in the future.

A remedy is imperative in this case. Not only will the outcome affect the numbers of federal employees who stay with LTC insurance, but it will certainly have an impact on selling policies to future generations of federal employees.

I urge the committee to act on these suggested remedies. During these days when health care is so much in the news, it is important that federal employees are reassured that the agencies responsible for creating and implementing health care benefits, are accountable to the policy holders, and that they deliver what they promise.

Thank you.

Daniel De Simone

Documents assembled by Library of Congress employees on the subject of Long Term Care Policy, which are available upon request include:

1) Joe Davison, "Buyers of Long Term Care Insurance Riled by Premium Increases." Washington Post, Federal Diary. 8/13/09

2) GAO Report on Long Term Care Insurance Program to Congressional Committee, December 2006 (gao.gov/new.items/d07202.pdf). This report is important because it outlines the difficulties LTC Partners had selling the policy. **"As a result of the federal program's limited ability to send direct mail to many eligible individuals, the federal program relied heavily on marketing efforts that were less direct and less personalized including sending information to federal employees through agency benefits officers and working with affinity groups. Because neither OPM nor Partners has direct access to federal employees through e-mail, Partners has worked with more than 150 agency benefits officers to distribute program information to federal employees through e-mail, internal office mail, or other means. when they send program information" (p. 16).** So, this may be understood to mean that Partners did not have direct control over who or what information was being presented to federal employees and as a result, agency officers may not have understood the program and did not express its limitations to members in a way that Partners may have intended.

3) NTEU Letter to Union Legislative Coordinator dated June 5, 2009.

4) "Long Term Care Insurance Program", publication of Long Term Care Partners, policy statement.

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