

106TH CONGRESS  
1ST SESSION

# H. R. 1111

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mrs. MORELLA introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees and annuitants, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Civilian and  
5       Uniformed Services Long-Term Care Insurance Act of  
6       1999”.

1 **SEC. 2. LONG-TERM CARE INSURANCE.**

2 Subpart G of part III of title 5, United States Code,  
3 is amended by adding at the end the following:

4 **“Chapter 90—Long-Term Care Insurance**

“Sec.

“9001. Definitions.

“9002. Eligibility to obtain coverage.

“9003. Contracting authority.

“9004. Long-term care benefits.

“9005. Financing.

“9006. Regulations.

5 **“§ 9001. Definitions**

6 “For purposes of this chapter:

7 “(1) EMPLOYEE.—The term ‘employee’  
8 means—

9 “(A) an employee as defined by section  
10 8901(1)(A)–(H); and

11 “(B) an individual described in section  
12 2105(e).

13 “(2) ANNUITANT.—The term ‘annuitant’ has  
14 the meaning such term would have under paragraph  
15 (3) of section 8901 if, for purposes of such para-  
16 graph, the term ‘employee’ were considered to have  
17 the meaning given to it under paragraph (1) of this  
18 subsection.

19 “(3) QUALIFIED RELATIVE.—The term ‘quali-  
20 fied relative’, as used with respect to a sponsoring  
21 individual, means—

1           “(A) the spouse of such sponsoring indi-  
2           vidual;

3           “(B) a parent or parent-in-law of such  
4           sponsoring individual; and

5           “(C) any other person bearing a relation-  
6           ship to such sponsoring individual specified by  
7           the Office in regulations.

8           “(4) SPONSORING INDIVIDUAL.—The term  
9           ‘sponsoring individual’ refers to an individual de-  
10          scribed in paragraph (1), (2), (3), or (4) of section  
11          9002(b).

12          “(5) CARRIER.—The term ‘carrier’ means a vol-  
13          untary association, corporation, partnership, or  
14          other nongovernmental organization which is law-  
15          fully engaged in providing, paying for, or reimburs-  
16          ing the cost of, qualified long-term care services  
17          under group insurance policies or contracts, or simi-  
18          lar group arrangements, in consideration of pre-  
19          miums or other periodic charges payable to the car-  
20          rier.

21          “(6) QUALIFIED LONG-TERM CARE SERVICES.—  
22          The term ‘qualified long-term care services’ has the  
23          meaning given such term by section 7702B of the  
24          Internal Revenue Code of 1986.

1           “(7) OFFICE.—The term ‘Office’ means the Of-  
2       fice of Personnel Management.

3           “(8) APPROPRIATE SECRETARY.—The term ‘ap-  
4       propriate Secretary’ means—

5               “(A) except as otherwise provided in this  
6       paragraph, the Secretary of Defense;

7               “(B) with respect to the Coast Guard when  
8       it is not operating as a service of the Navy, the  
9       Secretary of Transportation;

10              “(C) with respect to the commissioned  
11       corps of the National Oceanic and Atmospheric  
12       Administration, the Secretary of Commerce;  
13       and

14              “(D) with respect to the commissioned  
15       corps of the Public Health Service, the Sec-  
16       retary of Health and Human Services.

17   **“§ 9002. Eligibility to obtain coverage**

18       “(a) IN GENERAL.—Any eligible individual may ob-  
19       tain long-term care insurance coverage under this chapter  
20       for himself or herself, in accordance with applicable provi-  
21       sions of this chapter.

22       “(b) ELIGIBLE INDIVIDUAL DEFINED.—For pur-  
23       poses of this section, the term ‘eligible individual’ means  
24       each of the following:

1           “(1) EMPLOYEE.—An employee who has com-  
2           pleted 6 months of continuous service as an em-  
3           ployee under other than a temporary appointment  
4           limited to 6 months or less.

5           “(2) ANNUITANT.—An annuitant.

6           “(3) MEMBER OF THE UNIFORMED SERV-  
7           ICES.—A member of the uniformed services on ac-  
8           tive duty for a period of more than 30 days or full-  
9           time National Guard duty (as defined in section  
10          101(d)(5) of title 10) who satisfies such eligibility  
11          requirements as the Office prescribes under section  
12          9006(c).

13          “(4) RETIRED MEMBER OF THE UNIFORMED  
14          SERVICES.—A member of the uniformed services en-  
15          titled to retired or retainer pay (other than under  
16          chapter 1223 of title 10) who satisfies such eligi-  
17          bility requirements as the Office prescribes under  
18          section 9006(c).

19          “(5) QUALIFIED RELATIVE.—A qualified rel-  
20          ative of a sponsoring individual.

21          “(c) CERTIFICATION REQUIREMENT.—As a condition  
22          for obtaining long-term care insurance coverage under this  
23          chapter based on one’s status as a qualified relative, cer-  
24          tification from the applicant’s sponsoring individual shall  
25          be required as to—

1           “(1) such sponsoring individual’s status, as de-  
 2       scribed in paragraph (1), (2), (3), or (4) of sub-  
 3       section (b) (as applicable), as of the time of the  
 4       qualified relative’s application for coverage; and

5           “(2) the existence of the claimed relationship as  
 6       of that time.

7 Any such certification shall be submitted at such time and  
 8 in such form and manner as the Office shall by regulation  
 9 prescribe.

10       “(d) DISQUALIFYING CONDITION.—Nothing in this  
 11 chapter shall be considered to require that long-term care  
 12 insurance coverage be made available in the case of any  
 13 individual who would be immediately benefit eligible.

14 **“§ 9003. Contracting authority**

15       “(a) IN GENERAL.—The Office may, without regard  
 16 to section 3709 of the Revised Statutes or other statute  
 17 requiring competitive bidding, contract with qualified car-  
 18 riers to provide group long-term care insurance under this  
 19 chapter, except that the Office may not have contracts in  
 20 effect under this section with more than 3 qualified car-  
 21 riers as of any given time.

22       “(b) QUALIFIED CARRIERS.—To be considered a  
 23 qualified carrier under this chapter, a company must be  
 24 licensed to issue group long-term care insurance in all the  
 25 States and the District of Columbia.

1 “(c) TERMS AND CONDITIONS.—

2 “(1) IN GENERAL.—Each contract under this  
3 section shall contain a detailed statement of the ben-  
4 efits offered (including any maximums, limitations,  
5 exclusions, and other definitions of benefits), the  
6 rates charged (including any limitations or other  
7 conditions on their subsequent adjustment), and  
8 such other terms and conditions as may be mutually  
9 agreed to by the Office and the carrier involved, con-  
10 sistent with the requirements of this chapter.

11 “(2) RATES.—The rates charged under any  
12 contract under this section shall reasonably reflect  
13 the cost of the benefits provided under such con-  
14 tract.

15 “(d) NONCANCELABILITY.—The benefits and cov-  
16 erage made available to individuals under any contract  
17 under this section shall be guaranteed to be renewable and  
18 may not be canceled by the carrier except for nonpayment  
19 of charges.

20 “(e) PAYMENT OF REQUIRED BENEFITS; DISPUTE  
21 RESOLUTION.—Each contract under this section shall re-  
22 quire the carrier to agree—

23 “(1) to pay or provide benefits in an individual  
24 case if the Office (or a duly designated third-party

1 administrator) finds that the individual involved is  
2 entitled thereto under the terms of the contract; and

3 “(2) to participate in administrative procedures  
4 designed to bring about the expeditious resolution of  
5 disputes arising under such contract, including, in  
6 appropriate circumstances, one or more alternative  
7 means of dispute resolution.

8 “(f) DURATION.—

9 “(1) IN GENERAL.—Each contract under this  
10 section shall be for a term of 5 years, but may be  
11 made automatically renewable from term to term in  
12 the absence of notice of termination by either party.  
13 However, the rights and responsibilities of the en-  
14 rolled individual, the insurer, and the Office (or duly  
15 designated third-party administrator) under any  
16 such contract shall continue until the termination of  
17 coverage of the enrolled individual.

18 “(2) TERMINATION OF INDIVIDUAL COV-  
19 ERAGE.—Group long-term care insurance coverage  
20 obtained by an individual under this chapter shall  
21 terminate only upon the occurrence of any of the fol-  
22 lowing:

23 “(A) DEATH.—The death of the insured.



1           “(B) EXHAUSTION OF BENEFITS.—Ex-  
2           haustion of benefits, as determined under the  
3           contract.

4           “(C) INSOLVENCY.—Insolvency of the in-  
5           surer, as determined under the contract.

6           “(D) CANCELLATION.—Any event justi-  
7           fying a cancellation under subsection (d).

8           “(3) PRESERVATION OF RIGHTS AND RESPON-  
9           SIBILITIES.—Each contract under this section shall  
10          include such provisions as may be necessary so as,  
11          except as provided in paragraph (2)—

12           “(A) to effectively preserve all parties’  
13           rights and responsibilities under such contract  
14           notwithstanding the termination of such con-  
15           tract (whether due to its nonrenewal under the  
16           first sentence of paragraph (1) or otherwise);  
17           and

18           “(B) to ensure that, once an individual be-  
19           comes duly enrolled, long-term care insurance  
20           coverage obtained by such individual pursuant  
21           to that enrollment shall not be terminated due  
22           to any change in status (as described in section  
23           9002(b)), such as separation from Government  
24           service or the uniformed services, or ceasing to  
25           meet the requirements for being considered a

1 qualified relative (whether due to divorce or  
2 otherwise).

3 **“§ 9004. Long-term care benefits**

4 “(a) IN GENERAL.—Benefits under this chapter shall  
5 be provided under qualified long-term care insurance con-  
6 tracts, within the meaning of section 7702B of the Inter-  
7 nal Revenue Code of 1986.

8 “(b) SPECIFIC MATTERS TO BE INCLUDED IN ALL  
9 CONTRACTS.—Each contract under section 9003 shall, in  
10 addition to any matter otherwise required under this chap-  
11 ter, provide for the following:

12 “(1) Adequate consumer protections (including  
13 through establishment of sufficient reserves or rein-  
14 surance).

15 “(2) Adequate protections in the event of car-  
16 rier bankruptcy (or other similar event).

17 “(3) Availability of benefits upon appropriate  
18 certification as to an individual’s—

19 “(A) inability (without substantial assist-  
20 ance from another individual) to perform at  
21 least 2 activities of daily living for a period of  
22 at least 90 days due to a loss of functional ca-  
23 pacity;

24 “(B) having a level of disability similar (as  
25 determined under regulations prescribed by the

1 Secretary of the Treasury in consultation with  
2 the Secretary of Health and Human Services)  
3 to the level of disability described in subpara-  
4 graph (A); or

5 “(C) requiring substantial supervision to  
6 protect such individual from threats to health  
7 and safety due to severe cognitive impairment.

8 “(4) Choice of cash or service benefits (such as  
9 the expense-incurred method or the indemnity meth-  
10 od).

11 “(5) Inflation protection (whether through sim-  
12 ple or compounded adjustment of benefits).

13 “(6) Portability of benefits (consistent with  
14 subsections (d) and (f) of section 9003).

15 “(c) ADDITIONAL SPECIFIC MATTERS TO BE IN-  
16 CLUDED IN AT LEAST ONE CONTRACT.—To the maximum  
17 extent practicable, as of any given time, at least 1 of the  
18 policies being offered under this chapter shall, in addition  
19 to any matter otherwise required under this chapter, pro-  
20 vide for the following:

21 “(1) Length-of-benefit options.

22 “(2) Options relating to the provision of cov-  
23 erage in a variety of settings, including nursing  
24 homes, assisted living facilities, and home and com-  
25 munity care.

1 “(3) Options relating to elimination periods.

2 “(4) Options relating to nonforfeiture benefits.

3 “(5) Availability of benefits upon appropriate  
4 certification of medical necessity (as defined by the  
5 Office in consultation with the Secretary of Health  
6 and Human Services) not satisfying the require-  
7 ments of subsection (b)(3).

8 “(d) GOVERNMENTWIDE PLAN.—

9 “(1) IN GENERAL.—The Office shall take all  
10 practicable measures to ensure that, of the long-  
11 term care benefits plans available under this chapter  
12 as of any given time, at least one of them shall be  
13 a Governmentwide long-term care benefits plan.

14 “(2) DEFINITION.—For purposes of this sub-  
15 section, the term ‘long-term care benefits plan’  
16 means a group insurance policy or contract, or simi-  
17 lar group arrangement, provided by a carrier for the  
18 purpose of providing, paying for, or reimbursing ex-  
19 penses for qualified long-term care services.

20 “(3) CLARIFICATION.—Neither subsection  
21 (c)(5) nor the exception set forth in the parenthet-  
22 ical matter under subsection (e) shall apply with re-  
23 spect to any Governmentwide plan under this sub-  
24 section.

1       “(e) COORDINATION WITH INTERNAL REVENUE  
 2 CODE OF 1986.—Nothing in this chapter shall be consid-  
 3 ered to permit or require the inclusion, in any contract,  
 4 of provisions inconsistent with section 7702B or any other  
 5 provision of the Internal Revenue Code of 1986 (except  
 6 to the extent necessary to carry out subsection (c)(5)).

7       “(f) COORDINATION WITH STATE REQUIREMENTS.—  
 8 If a State (or the District of Columbia) imposes any re-  
 9 quirement which is more stringent than the analogous re-  
 10 quirement imposed by subsection (b)(1), the requirement  
 11 imposed by subsection (b)(1) shall be treated as met if  
 12 the more stringent requirement of the State (or the Dis-  
 13 trict of Columbia) is met.

14       “(g) DEFINITIONS.—For purposes of this section:

15               “(1) ACTIVITIES OF DAILY LIVING.—Each of  
 16 the following is an activity of daily living:

17                       “(A) Eating.

18                       “(B) Toileting.

19                       “(C) Transferring.

20                       “(D) Bathing.

21                       “(E) Dressing.

22                       “(F) Continence.

23               “(2) NURSING HOME.—The term ‘nursing  
 24 home’ has the meaning given such term by section  
 25 1908 of the Social Security Act.

1           “(3) ASSISTED LIVING FACILITY.—The term  
2           ‘assisted living facility’ has the meaning given such  
3           term by section 232 of the National Housing Act.

4           “(4) HOME AND COMMUNITY CARE.—The term  
5           ‘home and community care’ has the meaning given  
6           such term by section 1929 of the Social Security  
7           Act.

8   **“§ 9005. Financing**

9           “(a) NO GOVERNMENT CONTRIBUTION.—Except as  
10          provided in subsection (b)(2), each individual having long-  
11          term care insurance coverage under this chapter shall be  
12          responsible for 100 percent of the charges for such cov-  
13          erage.

14          “(b) WITHHOLDINGS.—

15                 “(1) IN GENERAL.—The amount necessary to  
16          pay the charges for enrollment shall—

17                         “(A) in the case of an employee, be with-  
18                         held from the pay of such employee;

19                         “(B) in the case of an annuitant, be with-  
20                         held from the annuity of such annuitant;

21                         “(C) in the case of a member of the uni-  
22                         formed services described in section 9002(b)(3),  
23                         be withheld from the basic pay of such member;  
24                         and

1           “(D) in the case of a member of the uni-  
2           formed services described in section 9002(b)(4),  
3           be withheld from the retired pay or retainer pay  
4           payable to such member.

5           “(2) VOLUNTARY WITHHOLDINGS FOR QUALI-  
6           FIED RELATIVES.—Withholdings to pay the charges  
7           for enrollment of a qualified relative may, upon elec-  
8           tion of the sponsoring individual involved, be with-  
9           held under paragraph (1) in the same manner as if  
10          enrollment were for such sponsoring individual.

11          “(3) DIRECT PAYMENTS.—All amounts with-  
12          held under paragraph (1) or (2) shall be paid di-  
13          rectly to the carrier.

14          “(c) OTHER FORMS OF PAYMENT.—Any enrollee  
15          whose pay, annuity, or retired or retainer pay (as referred  
16          to in subsection (b)(1)) is insufficient to cover the with-  
17          holding required for enrollment (or who is not receiving  
18          any regular amounts from the Government, as referred to  
19          in subsection (b)(1), from which any such withholdings  
20          may be made) shall pay an amount equal to the shortfall  
21          (or, in the case of an enrollee not receiving any regular  
22          amounts, the full amount of those charges) directly to the  
23          carrier.

24          “(d) SEPARATE FUND REQUIREMENT.—Each carrier  
25          participating under this chapter shall maintain all

1 amounts received under this chapter separate and apart  
2 from all other funds.

3 “(e) REIMBURSEMENTS.—Contracts under this chap-  
4 ter shall include appropriate provisions under which each  
5 carrier shall reimburse the Office or other administering  
6 entity for the administrative costs incurred by such entity  
7 under this chapter (such as for dispute resolution) which  
8 are allocable to such carrier.

9 **“§ 9006. Regulations**

10 “(a) IN GENERAL.—The Office shall prescribe regu-  
11 lations necessary to carry out this chapter.

12 “(b) ENROLLMENT.—The regulations of the Office  
13 shall prescribe the time at which and the manner and con-  
14 ditions under which an individual may obtain long-term  
15 care insurance under this chapter, except that, under the  
16 regulations, an open enrollment period shall be afforded  
17 at least once each year (similar to that afforded under sec-  
18 tion 8905(f)).

19 “(c) CONSULTATION.—Any regulations necessary to  
20 effect the application and operation of this chapter with  
21 respect to an eligible individual described in paragraph (3)  
22 or (4) of section 9002(b), or a qualified relative thereof,  
23 shall be prescribed by the Office in consultation with the  
24 appropriate Secretary.”.



1   **SEC. 3. EFFECTIVE DATE.**

2           The amendments made by this Act shall take effect  
3 on the date of enactment of this Act, except that no cov-  
4 erage may become effective before the first calendar year  
5 beginning after the expiration of the 18-month period be-  
6 ginning on the date of enactment of this Act.

○