

Enactment of Law on Coverage and Provision of Long-Term Health Services for Thailand's Elderly

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Abstract

Presently, Thailand has moved into becoming a complete aged society since 2021, affecting the country's development and economic growth in the long run, with respect to the health, economy and society at large, because the elderly are a risk group prone to chronic health problems, resulting in the medical expenses continually rising, having impact on the balance of Thailand's demographic structure. Thus, it is necessary to have definite legal measures in place for setting up a framework to mobilize operations of all agencies and bring about bases of long-term health protection and care, as assurance for the elderly and to accommodate rights of the elderly, which are recognized by the Constitution of the Kingdom of Thailand, by enacting a specific law on coverage and provision of health services for the elderly, whose principles are to expressly separate the law on health insurance and a law on coverage and care for the elderly, whereas the law to be enacted will focus and prioritize the elderly, who are dependent on the long-term health care. Enactment of the said specific law will make operations on the elderly seamless, definite and concrete, and enable mobilization of public policies on full preparation for the aging society, as well as succeed in the goal of coverage and care for the elderly.

Keywords: Elderly, Coverage, Health Service

Introduction

Thailand has moved toward becoming an aging society 2005¹, the year in which the proportion of the elderly population was larger than 10 percent of the country's overall population, according to the definition of United Nations. The Report on Situation of the Thai Elderly 2019 by Ministry of Social Development and Human Security indicates that, in 2019, Thailand has the elderly population, who are 60 years of age and above, in the proportion of 16.73 percent to the country's overall population, and will be a complete aged society in 2022, when the proportion of the elderly population, who are 60 years of age and above, will grow larger than 20 percent, provided that Thailand will become a super aged society in 2031, when the elderly from 60 years and above will contribute more than 28 percent of the total population.

Situations of structural changes in the completed aged society affect the country's development and economic growth in the long run, with respect to the health, economy and society at large (Jernsittiparsert & Kumsuprom, 2021). Thus, preparation for coping with the situations of the aging society is a major issue, because the elderly is a risk group prone to chronic health problems, resulting in the medical expenses continually rising, and have impact on the balance of Thailand's demographic structure, resulting in less care for the

¹ Thailand stipulates a definition of the term "elderly person" in Elderly Person Act, 2003, Section 3, meaning a person, who is over sixty years of age and has Thai nationality.

elderly of the family (Thatsanai, 2019; Whangmahaporn, 2018, 2019a, 2019b; Sangpud, 2021). The society experiences growing problems with the elderly leaving alone, the elderly deserted in the care facility, the homeless elderly, problems with diminishing health and capability of helping themselves in everyday life, because of physical degeneration due to the growing age, problems with income security, problems with rights and safety protection, as well as participation in the society. Moreover, the situations are reflected in Thailand's rising expenses on health. (Department of Health, 2019: 4) Health Systems Research Institute estimates that a budget to be averagely spent on the long-term health care for the dependent elderly is approximately 15,000 million Baht per year, or 0.1% of GDP during 2015-2022. Therefore, regards must be given to health promotion before and upon coming of the elderly age. In order to reduce the country's economic, society and family burdens, the government formulates policies and measures for dealing with the aging society, as well as all sectors are aware of the said situations, thus operations on the elderly are executed for driving the said policies, as to keep up with the changing situations, especially definite legal measures, for setting up a framework to mobilize operations of all agencies and bring about bases of long-term health protection and care, as assurance for the elderly. Therefore, it is found that, if Thailand enacts a specific law on coverage and provision of health services for the elderly, who need health care, assistance and privileges, different from other groups, accommodated will be rights of the elderly, which are recognized by the Constitution of the Kingdom of Thailand, 2017, Section 71, the Third Paragraph, which stipulates a principle that the State should provide with assistance for children, youth, women, the elderly, persons with disabilities, indigent persons and underprivileged persons, as to be able to have a quality living, and shall protect such persons from violence or unfair treatment, as well as provide treatment, rehabilitation and remedies to such injured persons. In allocating the budget, the State should take into account the different necessities and needs with respect to genders, ages and conditions of persons to ensure fairness. For fairness and consistency with the laws of many countries which have specific laws on long-term health care for the elderly and expressly separate laws on health insurance and laws on coverage and care for the elderly, the law to be enacted will focus and prioritize the elderly, who are dependent on the long-term health care. Enactment of the said law will make operations on the elderly seamless, definite and concrete, and enable mobilization of public policies on full preparation for the aging society, as well as succeed in the goal of coverage and care for the elderly.

Coverage and Provision of Long-Term Health Services for Thailand's Elderly

Health administration in the health insurance for Thai people is separated into 3 major groups, being: the State's employees (subject to Civil Servant Medical Benefit Scheme); private formal employees (subject to social security benefits), consisting of the health insurance fund subsidized by the government in 3 main systems (International Health Policy Program, Thailand (2016: 309-310); and the private health insurance systems. The details are as follows:

1) The Civil Servant Medical Benefit Scheme under Royal Decree Welfare of Medical Treatment, 2010, managed by Comptroller General's Department, Ministry of Finance

The Civil Servant Medical Benefit Scheme (CSMBS) is a health insurance system, with which is provided by the government for civil servants and their families, since 1963, covering civil servants, permanent employees, spouses, fathers, mothers, and children under 20 years of age, currently serving 9 percent of the country's population, under administration of Comptroller General's Department, Ministry of Finance.

The governing laws comprise of Royal Decree on Welfare of Medical Treatment for Civil Servants and Families, 1975, amended as to be up-to-date and necessities in 2010, and

amendment No.2 in 2012, Rule of Ministry of Finance Regarding Methods for Claiming Welfare of Medical Treatment, 2010, including relevant circular letters.

The Civil Servant Medical Benefit Scheme is an open-ended system, which does not set a cap of the maximum amount to be claimed by a patient or medical establishment against the State, whereby the welfare can be only remitted to a medical establishment of the State, in the amount of the actual expenses on either an in-patient or out-patient. A private medical establishment can claim the welfare only for a case of an accident or emergency, in which, if the patient is not treated immediately, his or her life will be endangered, whereas a half of the actual expenses can be claimed, but the claim must not exceed an amount of 8,000 Baht.

2) The Social Security Fund under Social Security Act, 1990, managed by Social Security Office, Ministry of Labour and Social Welfare

The law on social security is a statute concerning labour welfare in relation to establishment of the fund, to which is referred as the “Social Security Fund”, whose main financial sources come from 3 parties, being the employer, the employee and the government, administered by Social Security Office, Ministry of Labour and Social Welfare, with the intent to remit money from the said Fund for assisting the employees, by paying compensation benefits in forms and conditions stipulated by the law. The self-insured can receive medical treatment in a hospital or medical establishment within the social security rights under the conditions stipulated by the law. Apart from this, there are different categories of the self-insured, for whom the Fund cover expenses on health care, whereas the benefits will vary depending on the conditions of each category, including: the compulsory self-insured (Section 33); the voluntary self-insured (Section 39); and the voluntary self-insured (Section 40).

3) The Health Insurance System under National Health Insurance Act, 2002, administered by National Health Security Office, Ministry of Public Health

As the Constitution of the Kingdom of Thailand, 2017, stipulates that the Thai people shall enjoy equal rights to public health services up to standards, and indigent persons are entitled to receive treatment from the State's public health establishments free of charge as provided by law, and the State's public health must be efficient and comprehensive. Apart from this, the Constitution of the Kingdom of Thailand prescribes for the State to provide with and promote public health services, in order that the people shall universally receive the efficient services. For these reasons, a system must be in place to provide with public health services, which are necessary for living, as to ensure standards of health care. Thus, presently, the health insurance system is established according to the government's policies on provision with the public health services as “Universal Health Insurance”. Additionally, under National Health Insurance Act, 2002, agencies currently responsible for the Health Insurance System according to the policies comprise of National Health Security Office (NHSO), Ministry of Public Health, who formulates policies, criteria and standards for public health administration and services, and National Health Security Board, who is consisted of parties concerned by the health insurance system.

As such, the framework of the 20-Year National Strategy improves establishment of the health security systems, in the project on elimination of inequality among the 3 systems, providing with the health insurance systems for all the people in universal and equal manners, developing the system for registration of the rights to health treatment welfare of the people in every group, as to be up-to-date and correct, but not redundant, supporting harmonization of the State's health insurance systems, as to increase efficient use of public health resources and enhance equality for the people with different rights in receiving the services. The objectives are that all the people shall have equal rights to enjoy coverage of health insurance, and universally and equally receive public health services, by sufficient and comprehensive establishments of quality, who can provide with services responding to the necessities, resulting in the people satisfied by the health insurance systems, and complaints over quality

of the services reduced. The tasks are under responsibilities of NHSO and Office of Permanent Secretary of Ministry of Public Health. (Ministry of Public Health, 2016: 42)

4) The Private Health Insurance System, no specific law, the services are provided by insurance companies (non-life insurance companies/addendum to life insurance contracts)

People, who can afford to pay voluntary insurance premium, are not subsidized by the government, whereas particular corporate organizations are paying insurance premium for their workers or employees, probably in a form of either individual insurance or group insurance, provided that it is a voluntary system. However, there is no specific law governing or promoting health insurance. Presently, the insured can purchase a stand-alone health insurance policy from any non-life insurance company, who is governed by Non-Life Insurance Act, 1992, under a non-life insurance contract, but, if a person purchases a health insurance policy from a life insurance company, who is governed by Life Insurance Act, 1992, the policy will be in a form of an addendum to a life insurance policy, leading to ambiguity in legal enforcement.

Apart from the aforementioned 4 health insurance systems, there are other health insurance systems, for which the State is responsible to people in particular groups, such as local administrative workers welfare, Bangkok Metropolitan Administrative workers welfare, for civil servants and employees of Bangkok Metropolitan Administration, foreign labour health insurance systems, and state enterprise workers welfare.

The aforementioned health insurance systems can indicate that Thailand does not have specific laws on coverage and provision of public health services for the elderly, even though their rights are basic standards recognized by the Constitution of the Kingdom of Thailand, 2017, Chapter III: Rights and Liberties of the Thai People, Section 47 stipulating “*A person shall have the right to receive public health services provided by the State. An indigent person shall have the right to receive public health services provided by the State free of charge as provided by law. A person shall have the right to the protection and eradication of harmful contagious diseases by the State free of charge.*”, and Section 71, the Third Paragraph stipulating “*The State should provide assistance to children, youth, women, the elderly, persons with disabilities, indigent persons and underprivileged persons to be able to have a quality living, and shall protect such persons from violence or unfair treatment, as well as provide treatment, rehabilitation and remedies to such injured persons.*” The relevant statute is Elder Person Act, 2003. The rights to be enjoyed by the elderly protection, promotion and support in various aspects, such as medical and public health services, with which are provided for the elderly in convenient and expeditious manners as special cases, proper professional practices or occupational training, self-development and participation in social activities, assistance for the elderly, who suffer from inhumane treatment, unlawful exploitation or desertion, administration of advice and consultancy, other performance in legal proceedings, or solution to problems of family matters, provision with sufficient shelters, food and clothing as necessary. Additionally, National Health Act, 2007, Section 6, the Second Paragraph, prescribes that the health of a child, a disabled person, an elder person, and a social deprived person, as well as groups of people with specific health conditions, must be relevantly and appropriately promoted and protected. However, both aforementioned statutes do not separate coverage and provision of long-term public health services for the elderly as a specific issue. Presently, the State's obligations to provide with long-term health care and public health services for the elderly are entrusted to the National Health Security Fund, through local administrative organizations, by allocating the budget of Ministry of Public Health and the National Health Security Office (NHSO), with participation of local administrative organizations and local primary service establishments, for taking care of the dependent elderly in the localities, and managed by the Health Insurance Fund Board in local or area levels, as additionally stipulated by an announcement of the Fund, in order to provide

with medical and public health services for the dependent elderly in the localities, whereas the elderly quality of life development center or a center with any other name shall continuously administer and provide with the services, as well as refer a patient to another agency, in a case where the treatment requires.

Apart from this, United Nations held the 2nd world Assembly on Aging at Madrid, Spain, in 2002. The assembly resulted in international obligations in the matter of the elderly, referred to as the Madrid International Plan of Action on Aging, which determines the primary goals of developing the elderly in 3 issues, being: 1) Older Persons and Development; 2) Advancing Health and Well-Being into Old Age; 3) Ensuring Enabling and Supportive Environment,

which are obligations bound to be performed by Member States of United Nations, as goals of operations on the elderly, and the Member States jointly determine strategic directions to achieve the said goals for tackling challenges in the operations, with the issues concerning provision with public health services and development of long-term health care for the elderly, creating and developing systems to provide with the services, as to satisfy health care necessities of the elderly in the long run.

the Madrid International Plan of Action on Aging, also referred to as “MIPAA”, is a United Nations framework of guidelines of the elderly, whereas United Nations proposed the said Plan to the 2nd world Assembly on Aging at Madrid in order to seek mutual approval from the Member States, as well as to require operations on the elderly in each country to be in the guidelines of the said Plan. It is considered to be international obligations under the United Nations framework, which intends to bring about practical operations supportive to elevating and developing quality of life of the elderly on a global scale (Aruntippaitune, 2017: 81), in the issue of Advancing Health and Well-Being into Old age.

As for protection and health care of the elderly to provide with their long term care, Thailand, by the National Health Security Office (NHSO), under National Health Insurance Act, 2002, have been strengthening local administrative organizations (LAO.s) to be proficient in managing the long term public health care systems for the dependent elderly, for in the subsequent phase, LAO.s will be the primary actors in managing proactive long term care at home or day care centers for the elderly and the disabled, with support of the local service establishments. As such, Announcement of National Health Security Board Regarding Stipulation of Criteria for Encouraging Local Administrative Organizations to Operate and Manage Health Insurance Funds at Local or Area Levels, 2014, and amendment thereto, defines the term “dependent elder person” as an elder person or another person, whose Barthel, ADL, index scores are assessed to be lower than 11 points, separated into 4 categories, and has rights to receive public health services according to the sets of privileges in the attachment thereto, and “long term public health care for a dependent elder person” means services according to the sets of privileges in the attachment thereto, with which are provided at home or local day care centers for the elderly, or long term public health care service units or establishments for dependent elder persons, by public health personnel or helpers for dependent elderly, whereas the health insurance funds at local or area levels will establish subcommittees for supporting management of long term care services for the dependent elderly, with the duties to consider setting rates of service charge rebates, and accrediting the local day care centers for elderly, or long term public health care service units or establishments for dependent elder persons, in order that the dependent will receives the services according to the sets of privileges and at the set rates.

Coverage and Provision of Long-Term Public Health Services for the Elderly in Foreign Countries

Reviewing data of laws on coverage and provision of long-term care for the elderly in foreign countries finds that long term care insurance systems can be parts of the State's compulsory insurance provided for the people as basic rights. The studied foreign countries comprise of: Republic of Korea Under Long-Term Care Insurance Act No.16244, 2019, Article 2 (Definitions) and Article 23 (Types of Long-Term Care Benefits), the Long-term Care Insurance Program of Korea has been continuously being implemented until the present, in order to accommodate the aging society, whereas the government stipulates the criteria for the elderly, who are qualified for this program, as the elderly, who severely cannot manage their own activities of daily living (ADLs), for example, the elderly of 65 years of age and older, or the elderly under 65 years of age, who suffer from age-related health conditions, such as Alzheimer's disease, Parkinson's disease, Paralysis, etc. If the Ministry considers and finds that a patient suffers conditions under the criteria, the patient will receive health services, such as nursing, body cleansing, laundry and other services, etc. To pay the insurance premium and addendum service charges by the beneficiaries in this program, they must be responsible for paying the addendum service charges at the rates of approximately 15-20% of their incomes, when they receive in-home services or institution services. However, if the elder person has a small income, he or she may be considered for receiving the services free of charge, or paying the addendum service charges at a rate lower than the criteria. This long-term care insurance program is funded by payment of the insurance premium and addendum service charges from the insured, and subsidized by the government's budget.

Republic of China (Taiwan) A policy on long term care arose in 2007 (LTC 1.0). The target group is the elderly, who could not take care of themselves. Afterwards, the policy was amended in 2016 (LTC 2.0). The central government enlarge the target group, by lowering the age of the elderly to 55 years, and add special groups, such as people of 50 years or older, who suffer dementia, and disabled persons under 49 years of age, etc. The long-term care system screens the subjects by assessment to determine levels of care required by the subjects, and the administrators must review and follow up, in order to ensure that people, who need care, will receive due services. Taiwan's long-term care in the present covers 17 services, for example, care services for dementia, programs for preventing or delaying inability to take care of one's self, relocation from a hospital to receive in-home services, etc. Sources of incomes of the fund for long term care come from: 1) incomes from taxes, by increasing the real estate tax and the gift tax; 2) incomes from taxes, by increasing items of the tobacco and alcohol subject to the taxes; 3) budgets allocated by the government; 4) tobacco tax; 5) incomes from donation; 6) interests accrued from the fund; and 7) other incomes.

Japan has the Health Insurance System for Persons of 75 Years of Age and Older, covering the population, who are 75 years of age and older, operating at the municipal and provincial levels, whereas the applicant or the self-insured must pay the insurance premium, withholding from the pension, which is considered to be a basic welfare regularly enjoyed by the self-insured, and the all the insurance premium collected from withholding the pension of the self-insured will cover expenses or benefits to be paid to the elder person in forms of health service charges in the proportion of appropriately 10% of the total expenses, the deficient amount will be supported by the government and receive subsidies from the workers' health insurance system and the national health insurance system.

As such, it can be seen that solutions to problems with health care and public health services for the elderly in Thailand adopt approaches to drafting a statute to cover and provide with public health services for the elderly, whose status should be a specific law separate from the

statute on health insurance and other laws on rights of the elderly, whereas the law to be enacted will focus and prioritize the elderly, who are dependent on the long-term health care, which would help enabling the government and competent agencies to determine policies and directions in protecting rights of the elderly, provide with additional privileges, where the elderly should enjoy assistance and care in efficient and effective manners, as well as designate organizations to propel the measures under the law and mechanisms to follow up the performance particularly for the elderly, who require long-term health care or who are dependent, because the problems currently found in operations on the elderly are that, the operations are largely separated from each other and lack integration, or experience redundancies, other in terms of issues and geography, affecting the overall operations on the elderly and affecting assessment of the situations and determination of policies in various levels. Enactment of a statute to cover and provide with public health services for the elderly will enable the State's health insurance system to satisfy the people needs and truly bring about a universal health insurance coverage to the people.

Recommendations for Thailand

Analysis of Thailand's laws finds that the key statutes relevant to prescription of rights and coverage for the elderly include of Elderly Person Act, 2003, and amendment thereto, being the statute, whose objectives are to bring about operations in relation to coverage, promotion and support for rights and benefits of the elderly, as to be efficient and consistent with the provisions of the Constitution of the Kingdom of Thailand. Apart from this, there are National Health Insurance Act, 2002, and National Health Act, 2007, which focus on providing for the people with efficient public health services up to standards, having the people enjoy medical care from the state's public health service establishment for free of charge, in comprehensive and efficient manners. Whereas the said statutes do not separate coverage and provision with long-term public health services for the elderly as a specific matter, thus they are the source of rationale to prepare a draft specific law on Thailand's coverage and provision with long-term public health services for the elderly. The concept of preparing this draft law emphasizes prescription of authority of the key agencies in charge and establishment of a committee to propel the policies. The form of legislation as a specific law make coverage and provision with long-term public health services for the elderly clear and concrete, expressly enabling stipulation of conditions and criteria for accessing rights and enjoying coverage, supervision of and provision with public health services for the elderly, under the primary law, including a concept of establishing a fund to cover and provide with long-term public health services for the elderly, in a form of a circulation fund, whose sources are non-budget money, established to perform any specific tasks by virtue of the provisions of Treasury Reserves Act, 1948, and incomes generated from the operations will be contributed to the expenses in the future, without being remitted to the treasury reserve as the national revenue, even though they are important mechanisms and vehicles to develop the country, because in is a way enabling the government to perform necessary and key activities, which the government otherwise cannot perform in a regular manner, provided that the circulation fund in the state agency established under the law, both by virtue of the provisions of the Annual Budget Expenditure Act and the specific statute, must be under Circulation Funds Management Act, 2015.

The Author propose to prepare a Draft Act on Coverage and Provision of Long-Term Health Services for the Elderly,...., as a specific law, for mitigating problems with inequality of the health insurance systems and enhancing the government's financial stability, enabling the government to decrease the amounts to be contributed to the funds under the National Health Security Office (NHSO), in turn replenishing resources in the health insurance systems, and probably decreasing financial burdens in taking care of the elderly, whereas the National

Health Security Office (NHSO) must be the agency responsible for drafting the bill, assessing potential impact of the law, and further propelling the bill to the legislation process, as well as moving toward practical implementation of policies on universal and equal coverage of the elderly rights to health and public health services.

Essence of the Draft Act on Coverage and Provision of Long-Term Health Services for the Elderly, ..., must contain the substantial principles and provisions as follows:

1) Defining the term “elder person”, as to be consistent with the law on the elderly, provided that, presently, an elder person means a person, who is over fifty-five years of age and being a Thai national, and defining the term “dependent elderly” as to stipulate conditions for receiving long-term care under the law.

2) Stipulating forms and structures of agencies, comprising of: 2.1) Designating the agency in charge under the law, as to be Ministry of Public Health; 2.2) Prescribing forms of the national steering committee, as to be consisted of agencies competent at medical care and provision with public health services, including Office of Permanent Secretary of Ministry of Public Health, Office of Permanent Secretary of Ministry of Social Development and Human Security, Office of Permanent Secretary of Ministry of Interior, National Health Security Office, Department of Older Persons, Department of Local Administration, etc., and qualified committee members, who have expertise in law, aging, public health, and finance, as well as stipulating authority of the committee and other matters relating to operations of the committee; 2.3) Establishing a specific agency as the key agency in charge of the operations under this draft Act, and prescribing the authority of the agency, whereas a public long-term health service coverage and provision agency may be established to operate as a secretariat of the committee and an administrative agency under this draft Act.

3) Stipulating conditions and criteria for accessing the rights to coverage and provision of the health and public health services for the elderly.

4) Prescribing sets of basic benefits to be enjoyed by the elderly under the law, comprising of medical expenses, diagnosis costs, costs of medicines and medical supplies, in-home nursing service charges, costs of rehabilitation, dietary counseling, pharmaceutical care, provision with necessary medical equipment, other necessary health care.

5) Establishing “Elderly Long-Term Public Health Services Coverage and Provision Fund”, as a fund established under Circulation Funds Management Act, 2015, in a form of non-budget money established for performing operations relating to coverage and provisions with long-term public health services, whose objectives are to assist and financially support for expenses on coverage and provision with public health services for the elderly, and the incomes from the operations will be contributed to the expenses in the future, without being remitted to the treasury reserve as the national revenue, and stipulating that a part of the fund's incomes is subsidized by the budget, which is allocated as a budget for the elderly in each year, separating the budget for the elderly to be managed by the established fund, enabling flexibility in the management.

6) Prescribing for obligations of the competent agencies, which must provide with personnel proficient in each field, in order to render the services to the elderly, for example, fields of diagnosis, medical care, public health services, physical rehabilitation, pharmacy, mental care, etc., thereby stipulating proper qualifications and remunerations.

7) Prescribing for combining all data with respect to the elderly health in the systems among the competent agencies, as to integrate use of and access to the data for benefits of operations under the public policies.

If the said bill is in force as a statute, it will bring about a good health insurance system for the elderly, enhance quality of life of the elderly, whereas the public sector is the key participant in establishment of the infrastructure system suitable for living of the elderly and accommodate basic rights under the Constitution. Furthermore, once the elderly have good

quality of life and become healthy, the budget burdens of the public sector, with respect to expenses on public health, medical care and social services for the elderly, can be decreased, benefiting the country's overall economy.

Challenges in preparing the Draft Act on Coverage and Provision of Long-Term Health Services for the Elderly, ..., are that the draft must undergo a test of necessities, public hearing and impact analysis under Act on Legislative Drafting and Evaluation of Law, 2019, whereas, to propose for a new legislation, the government agency must demonstrate reasons and necessities of the law and their analysis, with evident support data and documents to prove that the proposed law will not create unnecessary burdens on the people, and whether or not it is worth the additional burdens imposed upon the state and the people, as well as there is no any measures or methods other than the legislation. In the issue of worthiness of the new legislation, analysis must be conducted into costs of the operations and and the cost effectiveness of the state's budget allocated to public health services, which must be separated between the ordinary people and the elderly, whereas the budget for the elderly will be managed under the drafted legislation. The analysis of worthiness must come up with sufficient support data that, if Act on Coverage and Provision of Long-Term Health Services for the Elderly, ..., is legislated as a new statute, it will result in the elderly enjoying the coverage and long-term public health services, and help reducing the state's budget on providing with care for the elderly.

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