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HOUSE BILL 1636

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Jenkins, Johnson, Tharinger, Harris, Appleton, and Fey

Read first time 01/25/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to establishing a program to fund long-term  
2 services and supports; adding a new chapter to Title 50 RCW; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Long-term care is not covered by medicare or other health  
7 insurance plans, and private long-term care insurance plans that do  
8 exist are unaffordable for most people; this leaves more than ninety  
9 percent of seniors uninsured for long-term care. The current market  
10 for long-term care insurance is broken: In 2002 there were one  
11 hundred two companies offering long-term care insurance coverage, but  
12 today the number stands at just twelve.

13 (2) Paying out of pocket for long-term care is expensive. In  
14 Washington the average cost for in-home care is fifty-six thousand  
15 dollars per year and the average cost for nursing home care is  
16 ninety-six thousand dollars per year. These are costs that most  
17 seniors cannot afford. The most recent national estimates show that  
18 for those over sixty-five years old who need long-term services and  
19 supports, the lifetime costs average about two hundred sixty thousand  
20 dollars, while seniors' median retirement savings stands at just one  
21 hundred forty-eight thousand dollars.

1 (3) Seventy percent of those over sixty-five years of age will  
2 need long-term services and supports within their lifetime. There are  
3 currently more than one million seniors in Washington, and by 2030  
4 that number will increase by fifty percent. Without access to  
5 insurance, seniors must rely on family care and spend down their life  
6 savings to poverty levels in order to access long-term care through  
7 medicaid. In Washington, more than eight hundred fifty thousand  
8 unpaid family caregivers provide care valued at eleven billion  
9 dollars in 2015. Furthermore, family caregivers who leave the  
10 workforce to provide unpaid long-term services and supports lose an  
11 average of three hundred thousand in their own income, and health and  
12 retirement benefits.

13 (4) Seniors and the state will not be able to continue their  
14 overreliance on family caregivers in the near future. Demographic  
15 shifts mean that fewer potential family caregivers will be available  
16 in the future. Today there are around seven potential caregivers for  
17 each senior, but by 2030 that ratio will decrease to just four to  
18 one.

19 (5) Long-term services and supports comprise approximately six  
20 percent of the state operating budget and demand for these services  
21 will double by 2030. Given the decline in unpaid care, families and  
22 the state could be responsible for an additional six billion dollars  
23 in long-term care costs by 2030.

24 (6) As the state seeks new options for funding long-term services  
25 and supports, the state must continue its commitment to promoting  
26 choice in long-term care settings. Any program must assure that  
27 individuals are able to use their benefits in the setting of their  
28 choice, whether that is in the home, a community-based setting, or a  
29 skilled nursing facility.

30 NEW SECTION. **Sec. 2.** The definitions in this section apply  
31 throughout this chapter unless the context clearly requires  
32 otherwise.

33 (1) "Account" means the long-term services and supports trust  
34 account created in section 10 of this act.

35 (2) "Activities of daily living" means self-care abilities  
36 related to personal care, as defined by the department, in  
37 collaboration with the department of social and health services, such  
38 as bathing, bed mobility, body care, dressing, eating, locomotion,  
39 personal hygiene, and toileting.

1 (3) "Commission" means the long-term services and supports trust  
2 commission established in section 5 of this act.

3 (4) "Daily benefit unit" means the equivalent of one hundred  
4 dollars, as adjusted annually by the commission according to a three  
5 percent index, paid by the department to a long-term services and  
6 supports provider as reimbursement for a day of care provided to an  
7 eligible beneficiary.

8 (5) "Department" means the employment security department.

9 (6) "Employee" means a person who provides services for  
10 compensation to an employer.

11 (7) "Employer" means:

12 (a) Any person, firm, corporation, partnership, or other business  
13 entity which engages in any business, industry, profession, or  
14 activity in this state and employs one or more employees. The term  
15 includes persons who are self-employed;

16 (b) The state, state institutions, and state agencies; and

17 (c) Any unit of local government.

18 (8) "Long-term services and supports provider" means a certified  
19 home care aide, licensed assisted living facility, licensed adult  
20 family home, licensed nursing home, or adult day health program  
21 approved by the department of social and health services.

22 (9) "Program" means the long-term services and supports trust  
23 program established in section 6 of this act.

24 NEW SECTION. **Sec. 3.** The department shall:

25 (1) Make determinations regarding an individual's status as a  
26 qualified enrollee or eligible beneficiary according to standards  
27 established by the commission;

28 (2) Register long-term services and supports providers that meet  
29 minimum qualifications, as established by the commission, and  
30 discontinue the registration of long-term services and supports  
31 providers that fail to meet the minimum qualifications or violate the  
32 operational standards of the program;

33 (3) Disburse payments of benefits to long-term services and  
34 supports providers for the provision of services to eligible  
35 beneficiaries under section 7 of this act;

36 (4) Reimburse health care providers who are registered under  
37 section 4 of this act for providing eligibility assessment services  
38 to qualified enrollees and eligible beneficiaries;

39 (5) Collect the payroll deductions under section 9 of this act;

1 (6) Establish systems and procedures for verifying the  
2 maintenance of qualified enrollee and eligible beneficiary status,  
3 including the maintenance of residency;

4 (7) Assist the commission in monitoring the solvency and  
5 financial status of the program;

6 (8) Prepare and distribute written or electronic materials to  
7 qualified enrollees and eligible beneficiaries as necessary to inform  
8 them of program design and updates;

9 (9) Perform investigations and conduct administrative hearings to  
10 determine the compliance of qualified enrollees, eligible  
11 beneficiaries, registered health care providers, and registered long-  
12 term services and supports providers;

13 (10) Conduct audits of registered long-term services and supports  
14 providers and recoup any inappropriate payments;

15 (11) Provide administrative and operational support to the  
16 commission; and

17 (12) Adopt rules and procedures necessary to implement and  
18 administer the program.

19 NEW SECTION. **Sec. 4.** The department of social and health  
20 services shall establish a registry for health care providers who  
21 meet the minimum qualifications necessary to conduct eligibility  
22 assessments under section 7 of this act, as those qualifications are  
23 established by the commission. The registry shall be available to  
24 qualified enrollees and eligible beneficiaries for purposes of  
25 selecting a provider to conduct an assessment of the individual's  
26 impairment related to activities of daily living. The department of  
27 social and health services shall establish procedures for  
28 discontinuing the registration of health care providers who fail to  
29 meet the minimum qualifications or violate the operational standards  
30 of the program.

31 NEW SECTION. **Sec. 5.** (1) The long-term services and supports  
32 trust commission is established.

33 (2) The commission shall include:

34 (a) One member from each of the two largest caucuses of the house  
35 of representatives, appointed by the speaker of the house of  
36 representatives;

37 (b) One member from each of the two largest caucuses of the  
38 senate, appoint by the president of the senate;

1 (c) The commissioner of the department, or his or her designee;

2 (d) The secretary of the department of social and health  
3 services, or his or her designee;

4 (e) Two representatives of long-term services and supports  
5 providers, one of which is a representative of a union representing  
6 long-term care workers;

7 (f) Two representatives of an organization representing retired  
8 persons; and

9 (g) Two representatives of consumers receiving long-term services  
10 and supports.

11 (3)(a) Members of the commission shall be appointed for terms of  
12 two years, except that the governor shall appoint the initial members  
13 identified in subsection (2)(e), (f), and (g) of this section to  
14 staggered terms not to exceed four years.

15 (b) The commissioner of the department, or his or her designee,  
16 shall serve as chair of the commission. Meetings of the commission  
17 shall be at the call of the chair.

18 (c) Members of the commission shall be compensated in accordance  
19 with RCW 43.03.250 and shall be reimbursed for their travel expenses  
20 while on official business in accordance with RCW 43.03.050 and  
21 43.03.060.

22 (4) The commission shall establish rules and policies regarding:

23 (a) The establishment of criteria for determining that an  
24 individual has met the requirements to be a qualified enrollee as  
25 established in section 6 of this act or an eligible beneficiary as  
26 established in section 7 of this act;

27 (b) The establishment of minimum qualifications for registering  
28 health care providers who may be registered with the department of  
29 social and health services to conduct assessments under section 7 of  
30 this act;

31 (c) The establishment of minimum qualifications for registering  
32 long-term services and supports providers;

33 (d) The establishment of criteria for the payment of benefits to  
34 registered long-term services and supports providers under section 7  
35 of this act;

36 (e) The establishment of standards and procedures for registered  
37 health care providers to use when conducting assessments and  
38 reporting the results of assessments to the department;

39 (f) The establishment of operational standards for the program  
40 that must be met by registered long-term services and supports

1 providers and health care providers registered to conduct assessments  
2 and penalties for the violation of the operational standards;

3 (g) The annual adjustment of the daily benefit unit in accordance  
4 with the formula established in section 2 of this act; and

5 (h) The preparation of regular reports on the solvency and  
6 financial status of the program.

7 NEW SECTION. **Sec. 6.** (1) The long-term services and supports  
8 trust program is established to provide benefits to qualified  
9 enrollees who meet the requirements of an eligible beneficiary.

10 (2) The department shall deem an individual to be a qualified  
11 enrollee under the program if the individual:

12 (a) Is at least eighteen years old;

13 (b) Is a Washington resident;

14 (c) Has paid the long-term services and supports assessment  
15 established under section 9 of this act for the equivalent of either:

16 (i) A total of ten years without an interruption of five or more  
17 consecutive years; or

18 (ii) Three years within a six-year period.

19 NEW SECTION. **Sec. 7.** (1) A qualified enrollee may become an  
20 eligible beneficiary if he or she:

21 (a) Is not eligible for long-term services and supports under  
22 medicare; and

23 (b) Has been assessed by a health care provider who is in the  
24 registry and has determined that the qualified enrollee requires  
25 assistance with at least three activities of daily living.

26 (2)(a) An eligible beneficiary may receive benefits through the  
27 program in the form of a daily benefit unit.

28 (b) The eligible beneficiary may not receive benefits until  
29 thirty days following the department's determination that he or she  
30 is an eligible beneficiary.

31 (c) An eligible beneficiary may not receive more than three  
32 hundred sixty-five services days of benefits over the course of the  
33 eligible beneficiary's lifetime. If the department reimburses a long-  
34 term services and supports provider for a day of care provided to an  
35 eligible beneficiary and the payment is less than the daily benefit  
36 unit, the department shall credit the unused portion of the daily  
37 benefit to the eligible beneficiary for future use.

1        NEW SECTION.    **Sec. 8.**    (1) A qualified enrollee's status in the  
2 program shall lapse if he or she ceases to be a resident of  
3 Washington for a period of at least five consecutive years without  
4 paying the long-term services and supports assessment under section 9  
5 of this act.

6        (2) An individual whose qualified enrollee status has lapsed  
7 under subsection (1) of this section may restore his or her qualified  
8 enrollee status upon resuming residence in Washington and making  
9 payment of the long-term services and supports assessment established  
10 under section 9 of this act for the equivalent of either:

11        (a) A total of ten years without an interruption of five or more  
12 consecutive years; or

13        (b) Three years within a six-year period.

14        NEW SECTION.    **Sec. 9.**    (1) Each employer shall deduct from each  
15 employee's salary the equivalent of 0.49 percent of the employee's  
16 total compensation. The amounts shall be submitted to the department  
17 on a timeline determined by the department. The employer shall  
18 accompany the amounts with such information as the department  
19 determines is necessary to administer the program.

20        (2) The department shall deposit all funds received from  
21 employers under subsection (1) of this section into the account  
22 created in section 10 of this act.

23        NEW SECTION.    **Sec. 10.**    The long-term services and supports trust  
24 account is created in the state treasury. All receipts from employers  
25 under section 9 of this act must be deposited in the account. Moneys  
26 in the account may be spent only after appropriation. Expenditures  
27 from the account may be used for the administrative activities and  
28 payment of benefits associated with the program.

29        NEW SECTION.    **Sec. 11.**    This act takes effect July 1, 2018.

30        NEW SECTION.    **Sec. 12.**    Sections 1 through 11 of this act  
31 constitute a new chapter in Title 50 RCW.

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