Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1087

Brief Description: Concerning long-term services and supports.

Sponsors: Representatives Jinkins, MacEwen, Cody, Harris, Tharinger, Slatter, Kloba, Ryu, Macri, DeBolt, Bergquist, Doglio, Robinson, Stanford, Stonier, Frame and Leavitt.

Brief Summary of Bill

- Establishes the Long-Term Services and Supports Trust Program (Trust Program) to provide benefits for long-term services and supports to qualified individuals who need assistance with at least three activities of daily living.
- Establishes eligibility requirements for the Trust Program for persons who pay a premium of 0.58 percent of a person's wages for a specific amount of time.

Hearing Date: 1/16/19

Staff: Chris Blake (786-7392).

Background:

Persons who need assistance with activities of daily living such as bathing, dressing, medication administration, personal hygiene, or other health-related tasks may access assistance through several types of care providers in different settings. Many of these settings also provide skilled nursing and therapists, activities, rehabilitation, and coordinated care. Providers of long-term services and supports include unpaid family caregivers, nursing homes, assisted living facilities, adult family homes, home health services, and individual and agency providers. Sources of funding for long-term services and supports include personal resources, private long-term care insurance, and Medicaid.

The 2015-17 Operating Budget funded the Department of Social and Health Services to contract for an independent feasibility study and actuarial modeling of two options to provide financial assistance to persons with preparations for long-term services and supports needs. The first option was to review a public long-term care benefit for workers funded through a payroll tax

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deduction. The second option was to review a public-private reinsurance model to provide a stable source of reimbursement for insurers for a portion of catastrophic long-term services and supports losses. The study was released in January 2017. The 2017-19 Operating Budget funded an update to the 2016 feasibility study and directed the study to also review alternative variations of the public long-term care benefit. In addition, the 2017-19 Operating Budget established a work group to develop a proposal to include family members as providers of long-term services and supports under the public long-term care benefit.

Summary of Bill:

The Long-Term Services and Supports Trust Program (Trust Program) is established to provide long-term services and supports benefits to persons who have paid into the Trust Program for a specific amount of time and who have been assessed as needing a certain amount of assistance with activities of daily living.

Beginning January 1, 2022, employees in Washington who are working at least 10 percent of full-time employment status shall be assessed a premium of 0.58 percent of their wages. Washington residents receive "qualified individual" status if they are at least 18 years old and have paid the premium for either: (1) three years within the last six years, or (2) for a total of 10 years, with at least five of those years paid without interruption. Beginning January 1, 2025, a qualified individual may become an "eligible beneficiary" if the individual has been determined by the Department of Social and Health Services (DSHS) to require assistance with at least three activities of daily living.

Upon becoming an eligible beneficiary, a person may receive approved services through a benefit unit model. A benefit unit is the equivalent of up to $100, adjusted by an annual 3 percent index, that the DSHS pays to a long-term services and supports provider for providing approved services to an eligible beneficiary. An eligible beneficiary may receive up to 365 benefit units over the course of the beneficiary's lifetime. Eligible beneficiaries may combine benefit units to fund approved services, as long as they do not exceed their lifetime limit. Partial benefit units may be retained by the eligible beneficiary if a day of care costs less than the value of the benefit unit.

Approved services are long-term services and supports, including adult day services, in-home personal care, assisted living services, adult family home services, nursing home services, care transition coordination, dementia supports, home safety evaluation, adaptive equipment, respite for family caregivers, transportation, home-delivered meals, education and consultation, and evidence-based interventions to improve health and well-being.

Approved services must be provided by a long-term services and supports provider that is qualified to provide the approved service and is registered with the DSHS to participate in the Trust Program. Long-term services and supports providers may be a home care aide, assisted living facility, adult family home, nursing home, in-home services agency, adult day health program, vendor, instructor, qualified family member, or other entity. Within 120 days of becoming a long-term care worker, a spouse or registered domestic partner who is a long-term care worker under the Trust Program for a spouse or domestic partner must receive 15 hours of training related to the needs of adults with disabilities and six hours of focused training based on

the spouse or domestic partner's needs. The spouse or domestic partner acting as a long-term care worker does not need to become certified as a home care aide.

The Trust Program is administered jointly by the DSHS, the Employment Security Department (ESD), and the Health Care Authority (HCA). Each agency has the following responsibilities:

- The DSHS shall make determinations regarding eligible beneficiary status, identify approved services that are eligible for payment, register long-term services and supports providers and discontinue the registration of those that fail to meet minimum qualifications or that violate Trust Program operating standards, disburse payments to long-term services and supports providers, prepare informational materials, provide customer service, provide support to the Long-Term Services and Supports Trust Commission (Commission), track data relevant to the Commission, and establish rules and procedures for benefit coordination.
- The ESD shall assess and collect employee premiums, assist the Commission in monitoring the solvency and financial status of the Trust Program, and perform investigations to determine compliance with premium payments.
- The HCA shall make determinations regarding the status of a person as a qualified individual, assure that services are provided, and establish criteria for making payments to long-term services and supports providers.

The Commission is established and is comprised of:

- eight legislators;
- the Commissioner of the ESD;
- the Secretary of the DSHS;
- the Director of the HCA;
- a representative of the organization representing the area agencies on aging;
- a representative of a home care association that represents caregivers who care for private pay and Medicaid clients;
- a representative of a union representing long-term care workers;
- a representative of an association representing retired persons;
- a representative of an association representing skilled nursing facilities and assisted living providers;
- a representative of an association representing adult family home providers; and
- two individuals receiving long-term services and supports, or their designees, or representatives of consumers receiving long-term services and supports under the Trust Program.

The Commission shall propose recommendations related to criteria for qualified individuals and eligible beneficiaries, minimum qualifications for the registration of long-term services and supports providers, improvements to the operation of the Trust Program, annual adjustments of the value of the benefit unit, and the preparation of actuarial reports on the solvency and financial status of the Trust Program.

The DSHS must seek data to analyze the potential savings in Medicare expenditures resulting from the Trust Program. In addition, the DSHS must apply for a federal demonstration waiver to allow the state to share in savings to the federal government in Medicaid long-term services and supports and Medicare due to the operation of the Trust Program. By December 1, 2022, the

DSHS must submit a report to the Office of Financial Management and the appropriate committees of the Legislature regarding the status of the waiver request.

Beginning December 1, 2026, the Commission must submit an annual report to the Legislature on the Trust Program. The report must include information about projected and actual Trust Program participation, the adequacy of premium rates, fund balances, benefits paid, demographic information on Trust Program participants, and the extent to which the Trust Program has resulted in savings to the Medicaid program through cost avoidance.

Monies collected from the premium must be deposited in the Long-Term Services and Supports Trust Account (Trust Account). The Trust Account may only be used for supporting the administrative activities and payment of benefits related to the Trust Program.

Determinations made by the HCA and the ESD are subject to appeal procedures.

Beginning January 1, 2023, self-employed persons may elect coverage under the Trust Program. Those who elect such coverage may voluntarily withdraw from participation. The ESD may cancel elective coverage if the self-employed person fails to make the required payments or file reports.

Legislative findings are made related to the difficulty in obtaining coverage for long-term care, the need for long-term care, the cost of long-term care, the inability of seniors to rely on family caregivers, the cost to the state of providing long-term services and supports, the need for an alternative funding mechanism for long-term services and supports, and the need for the state to continue to promote consumer choice in selecting approved services and long-term care settings.

Appropriation: None.

Fiscal Note: Requested on January 11, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.