
HOUSE BILL 2467

State of Washington

68th Legislature

2024 Regular Session

By Representatives Macri, Chopp, Thai, Bateman, and Pollet

Read first time 01/23/24. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to increasing access to the long-term services
2 and supports trust program by allowing participants who move out-of-
3 state the option of maintaining benefit eligibility or opting out,
4 and by prohibiting discrimination including based upon race, gender,
5 age, or preexisting condition; amending RCW 50B.04.010, 50B.04.020,
6 50B.04.060, 50B.04.070, and 50B.04.100; reenacting and amending RCW
7 50B.04.050; adding new sections to chapter 50B.04 RCW; creating a new
8 section; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** The purpose of this act is to preserve and
11 strengthen Washington's long-term care program by giving participants
12 who move out-of-state the option of maintaining benefit eligibility
13 or opting out, and prohibiting discrimination based upon race,
14 gender, age, or preexisting condition.

15 Extending coverage to Washington workers when they move out-of-
16 state will protect employees' investments in the state's long-term
17 care program, ensuring that eligible beneficiaries can receive long-
18 term care benefits when they need them, even if they move out-of-
19 state, while preserving the right for out-of-state participants to
20 opt out. The extension of the program will increase the state's
21 investment in long-term care services. The prohibition in this act

1 against discrimination will ensure that the program is implemented
2 uniformly and that all program participants are equally protected
3 from discrimination regardless of the laws in their home state.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 50B.04
5 RCW to read as follows:

6 (1) Beginning July 1, 2026, an employee or self-employed person,
7 who has elected coverage under RCW 50B.04.090, who relocates outside
8 of Washington may elect to continue participation in the program if:

9 (a) The employee or self-employed person has been assessed
10 premiums by the employment security department for at least three
11 years in which the employee or self-employed person has worked at
12 least 500 hours in each of those years in Washington; and

13 (b) The employee or self-employed person notifies the employment
14 security department within one year of establishing a primary
15 residence outside of Washington that the employee or self-employed
16 person is no longer a resident of Washington and elects to continue
17 participation in the program.

18 (2) Out-of-state participants under subsection (1) of this
19 section must report their wages or self-employment earnings to the
20 employment security department according to standards for manner and
21 timing of reporting and documentation submission, as adopted by rule
22 by the employment security department. An out-of-state participant
23 must submit documentation to the employment security department
24 whether or not the out-of-state participant earned wages or self-
25 employment earnings, as applicable, during the applicable reporting
26 period. When an out-of-state participant reaches the age of 67, the
27 participant is no longer required to provide the documentation of
28 their wages or self-employment earnings, but if the participant earns
29 wages or self-employment earnings, the participant must submit
30 reports of those wages or self-employment earnings and remit the
31 required premiums.

32 (3) Out-of-state participants under subsection (1) of this
33 section must provide documentation of wages and self-employment
34 earnings earned at the time that they report their wages or self-
35 employment earnings to the employment security department.

36 (4) The employment security department may cancel elective
37 coverage if the out-of-state participant fails to make required
38 payments or submit reports. The employment security department may
39 collect due and unpaid premiums and may levy an additional premium

1 for the remainder of the period of coverage. The cancellation must be
2 effective no later than 30 days from the date of the notice in
3 writing advising the out-of-state participant of the cancellation.

4 (5) The employment security department shall:

5 (a) Adopt standards by rule for the manner and timing of
6 reporting and documentation submission for out-of-state participants.
7 The employment security department must consider user experience with
8 the wage and self-employment earnings reporting process and the
9 document submission process and regularly update the standards to
10 minimize the procedural burden on out-of-state participants and
11 support the accurate reporting of wages and self-employment earnings
12 at the time of the payment of premiums;

13 (b) Collect premiums from out-of-state participants as provided
14 in RCW 50B.04.080, as relevant to out-of-state participants; and

15 (c) Verify the wages or self-employment earnings as reported by
16 an out-of-state participant.

17 (6) For the purposes of this section, "wages" includes
18 remuneration for services performed within or without or both within
19 and without this state.

20 (7) Entities providing services to an eligible beneficiary
21 outside Washington are subject to section 9 of this act and may not
22 discriminate based upon race, gender, age, or preexisting condition.

23 (8) An employee or self-employed person who has elected coverage
24 under RCW 50B.04.090 who relocates outside of Washington may elect to
25 opt out of coverage, rather than become an out-of-state participant
26 in the program.

27 (9) By extending the premium base to out-of-state participants
28 under subsection (1) of this section, this act will increase the
29 state's investment in long-term care services.

30 **Sec. 3.** RCW 50B.04.010 and 2021 c 113 s 1 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Account" means the long-term services and supports trust
35 account created in RCW 50B.04.100.

36 (2) "Approved service" means long-term services and supports
37 including, but not limited to:

38 (a) Adult day services;

39 (b) Care transition coordination;

- 1 (c) Memory care;
- 2 (d) Adaptive equipment and technology;
- 3 (e) Environmental modification;
- 4 (f) Personal emergency response system;
- 5 (g) Home safety evaluation;
- 6 (h) Respite for family caregivers;
- 7 (i) Home delivered meals;
- 8 (j) Transportation;
- 9 (k) Dementia supports;
- 10 (l) Education and consultation;
- 11 (m) Eligible relative care;
- 12 (n) Professional services;
- 13 (o) Services that assist paid and unpaid family members caring
- 14 for eligible individuals, including training for individuals
- 15 providing care who are not otherwise employed as long-term care
- 16 workers under RCW 74.39A.074;
- 17 (p) In-home personal care;
- 18 (q) Assisted living services;
- 19 (r) Adult family home services; and
- 20 (s) Nursing home services.
- 21 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
- 22 by the department of social and health services to a long-term
- 23 services and supports provider as reimbursement for approved services
- 24 provided to an eligible beneficiary on a specific date. The benefit
- 25 unit must be adjusted annually at a rate no greater than the
- 26 Washington state consumer price index, as determined solely by the
- 27 council. Any changes adopted by the council shall be subject to
- 28 revision by the legislature.
- 29 (4) "Commission" means the long-term services and supports trust
- 30 commission established in RCW 50B.04.030.
- 31 (5) "Council" means the long-term services and supports trust
- 32 council established in RCW 50B.04.040.
- 33 (6) "Eligible beneficiary" means a qualified individual who is
- 34 age (~~eighteen~~) 18 or older, (~~residing in the state of~~
- 35 ~~Washington,~~) has been determined to meet the minimum level of
- 36 assistance with activities of daily living necessary to receive
- 37 benefits through the trust program, as established in this chapter,
- 38 and has not exhausted the lifetime limit of benefit units.
- 39 (7) "Employee" has the meaning provided in RCW 50A.05.010.
- 40 (8) "Employer" has the meaning provided in RCW 50A.05.010.

1 (9) "Employment" has the meaning provided in RCW 50A.05.010.

2 (10) "Exempt employee" means a person who has been granted a
3 premium assessment exemption by the employment security department.

4 (11) "Long-term services and supports provider" means:

5 (a) For entities providing services to an eligible beneficiary in
6 Washington, an entity that meets the qualifications applicable in law
7 to the approved service they provide, including a qualified or
8 certified home care aide, licensed assisted living facility, licensed
9 adult family home, licensed nursing home, licensed in-home services
10 agency, adult day services program, vendor, instructor, qualified
11 family member, or other entities as registered by the department of
12 social and health services; and

13 (b) For entities providing services to an eligible beneficiary
14 outside Washington, an entity that meets minimum standards for care
15 provision and program administration, as established by the
16 department of social and health services, and that is appropriately
17 credentialed in the jurisdiction in which the services are being
18 provided as established by the department of social and health
19 services.

20 (12) "Premium" or "premiums" means the payments required by RCW
21 50B.04.080 and paid to the employment security department for deposit
22 in the account created in RCW 50B.04.100.

23 (13) "Program" means the long-term services and supports trust
24 program established in this chapter.

25 (14) "Qualified family member" means a relative of an eligible
26 beneficiary qualified to meet requirements established in state law
27 for the approved service they provide that would be required of any
28 other long-term services and supports provider to receive payments
29 from the state.

30 (15) "Qualified individual" means an individual who meets the
31 duration of payment requirements, as established in this chapter.

32 (16) "State actuary" means the office of the state actuary
33 created in RCW 44.44.010.

34 (17) "Wage or wages" means all remuneration paid by an employer
35 to an employee. Remuneration has the meaning provided in RCW
36 50A.05.010. All wages are subject to a premium assessment and not
37 limited by the commissioner of the employment security department, as
38 provided under RCW 50A.10.030(4).

1 **Sec. 4.** RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read
2 as follows:

3 (1) The health care authority, the department of social and
4 health services, the office of the state actuary, and the employment
5 security department each have distinct responsibilities in the
6 implementation and administration of the program. In the performance
7 of their activities, they shall actively collaborate to realize
8 program efficiencies and provide persons served by the program with a
9 well-coordinated experience.

10 (2) The health care authority shall:

11 (a) Track the use of lifetime benefit units to verify the
12 individual's status as an eligible beneficiary as determined by the
13 department of social and health services;

14 (b) Ensure approved services are provided through audits or
15 service verification processes within the service provider payment
16 system for registered long-term services and supports providers and
17 recoup any inappropriate payments;

18 (c) Establish criteria for the payment of benefits to registered
19 long-term services and supports providers under RCW 50B.04.070;

20 (d) Establish rules and procedures for benefit coordination when
21 the eligible beneficiary is also funded for medicaid and other long-
22 term services and supports, including medicare, coverage through the
23 department of labor and industries, and private long-term care
24 coverage; and

25 (e) Adopt rules and procedures necessary to implement and
26 administer the activities specified in this section related to the
27 program.

28 (3) The department of social and health services shall:

29 (a) Make determinations regarding an individual's status as an
30 eligible beneficiary under RCW 50B.04.060;

31 (b) Approve long-term services and supports eligible for payment
32 as approved services under the program, as informed by the
33 commission;

34 (c) Register long-term services and supports providers that meet
35 minimum qualifications;

36 (d) Discontinue the registration of long-term services and
37 supports providers that: (i) Fail to meet the minimum qualifications
38 applicable in law to the approved service that they provide; or (ii)
39 violate the operational standards of the program;

1 (e) Disburse payments of benefits to registered long-term
2 services and supports providers, utilizing and leveraging existing
3 payment systems for the provision of approved services to eligible
4 beneficiaries under RCW 50B.04.070;

5 (f) Prepare and distribute written or electronic materials to
6 qualified individuals, eligible beneficiaries, and the public as
7 deemed necessary by the commission to inform them of program design
8 and updates;

9 (g) Provide customer service and address questions and
10 complaints, including referring individuals to other appropriate
11 agencies;

12 (h) Provide administrative and operational support to the
13 commission;

14 (i) Track data useful in monitoring and informing the program, as
15 identified by the commission; and

16 (j) Adopt rules and procedures necessary to implement and
17 administer the activities specified in this section related to the
18 program.

19 (4) The employment security department shall:

20 (a) Collect and assess employee premiums as provided in RCW
21 50B.04.080 and 50B.04.090 and section 2 of this act;

22 (b) Assist the commission, council, and state actuary in
23 monitoring the solvency and financial status of the program;

24 (c) Perform investigations to determine the compliance of premium
25 payments in RCW 50B.04.080 and 50B.04.090 and section 2 of this act
26 in coordination with the same activities conducted under the family
27 and medical leave act, Title 50A RCW, to the extent possible;

28 (d) Make determinations regarding an individual's status as a
29 qualified individual under RCW 50B.04.050, including criteria to
30 determine the status of persons receiving partial benefit units under
31 RCW 50B.04.050(2) and out-of-state participants under section 2 of
32 this act; and

33 (e) Adopt rules and procedures necessary to implement and
34 administer the activities specified in this section related to the
35 program.

36 (5) The office of the state actuary shall:

37 (a) Beginning July 1, 2025, and biennially thereafter, perform an
38 actuarial audit and valuation of the long-term services and supports
39 trust fund. Additional or more frequent actuarial audits and
40 valuations may be performed at the request of the council;

1 (b) Make recommendations to the council and the legislature on
2 actions necessary to maintain trust solvency. The recommendations
3 must include options to redesign or reduce benefit units, approved
4 services, or both, to prevent or eliminate any unfunded actuarially
5 accrued liability in the trust or to maintain solvency; and

6 (c) Select and contract for such actuarial, research, technical,
7 and other consultants as the actuary deems necessary to perform its
8 duties under chapter 363, Laws of 2019.

9 (6) By October 1, 2021, the employment security department and
10 the department of social and health services shall jointly conduct
11 outreach to provide employers with educational materials to ensure
12 employees are aware of the program and that the premium assessments
13 will begin on July 1, 2023. In conducting the outreach, the
14 employment security department and the department of social and
15 health services shall provide on a public website information that
16 explains the program and premium assessment in an easy to understand
17 format. Outreach information must be available in English and other
18 primary languages as defined in RCW 74.04.025.

19 **Sec. 5.** RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are
20 each reenacted and amended to read as follows:

21 (1) Except as provided in subsection (2) of this section, the
22 employment security department shall deem a person to be a qualified
23 individual as provided in this chapter if the person has paid the
24 long-term services and supports premiums required by RCW 50B.04.080
25 for the equivalent of either:

26 (a) A total of ten years without interruption of five or more
27 consecutive years; or

28 (b) Three years within the last six years from the date of
29 application for benefits.

30 (2) A person born before January 1, 1968, who has not met the
31 duration requirements under subsection (1)(a) of this section may
32 become a qualified individual with fewer than the number of years
33 identified in subsection (1)(a) of this section if the person has
34 paid the long-term services and supports premiums required by RCW
35 50B.04.080 for at least one year. A person becoming a qualified
36 individual pursuant to this subsection (2) may receive one-tenth of
37 the maximum number of benefit units available under RCW
38 50B.04.060(3)(b) for each year of premium payments. In accordance
39 with RCW 50B.04.060, benefits for eligible beneficiaries in

1 Washington will not be available until July 1, 2026, and benefits for
2 out-of-state participants who become eligible beneficiaries will not
3 be available until July 1, 2030, and nothing in this section requires
4 the department of social and health services to accept applications
5 for determining an individual's status as an eligible beneficiary
6 prior to July 1, 2026. Nothing in this subsection (2) prohibits a
7 person born before January 1, 1968, who meets the conditions of
8 subsection (1)(b) of this section from receiving the maximum number
9 of benefit units available under RCW 50B.04.060(3)(b).

10 (3) When deeming a person to be a qualified individual, the
11 employment security department shall require that the person have
12 worked at least (~~five hundred~~) 500 hours during each of the ten
13 years in subsection (1)(a) of this section, each of the three years
14 in subsection (1)(b) of this section, or each of the years identified
15 in subsection (2) of this section.

16 (4) An exempt employee may never be deemed to be a qualified
17 individual, unless the employee's exemption was discontinued under
18 RCW 50B.04.055.

19 **Sec. 6.** RCW 50B.04.060 and 2022 c 1 s 4 are each amended to read
20 as follows:

21 (1) Beginning July 1, 2026, approved services must be available
22 and benefits payable to a registered long-term services and supports
23 provider on behalf of an eligible beneficiary under this section.

24 ((Beginning)) (a)(i) Except for qualified individuals
25 residing outside of Washington as provided in (a)(ii) of this
26 subsection, beginning July 1, 2026, a qualified individual may become
27 an eligible beneficiary by filing an application with the department
28 of social and health services and undergoing an eligibility
29 determination which includes an evaluation that the individual
30 requires assistance with at least three activities of daily living.

31 (ii) For a qualified individual residing outside of Washington,
32 beginning January 1, 2030, the out-of-state qualified individual may
33 become an eligible beneficiary by filing an application with the
34 department of social and health services and undergoing an
35 eligibility determination. The eligibility determination must include
36 an evaluation that the individual either (A) is unable to perform,
37 without substantial assistance from another individual, at least two
38 of the following activities of daily living for a period of at least
39 90 days due to a loss of functional capacity: Eating, toileting,

1 transferring, bathing, dressing, or continence, or (B) requires
2 substantial supervision to protect such individual from threats to
3 health and safety due to severe cognitive impairments.

4 (b) The department of social and health services must engage
5 sufficient qualified assessor capacity, including via contract, so
6 that the determination may be made within 45 days from receipt of a
7 request by a beneficiary to use a benefit.

8 (3) (a) An eligible beneficiary may receive approved services and
9 benefits through the program in the form of a benefit unit payable to
10 a registered long-term services and supports provider.

11 (b) Except as limited in RCW 50B.04.050(2), an eligible
12 beneficiary may not receive more than the dollar equivalent of 365
13 benefit units over the course of the eligible beneficiary's lifetime.

14 (i) If the department of social and health services reimburses a
15 long-term services and supports provider for approved services
16 provided to an eligible beneficiary and the payment is less than the
17 benefit unit, only the portion of the benefit unit that is used shall
18 be taken into consideration when calculating the person's remaining
19 lifetime limit on receipt of benefits.

20 (ii) Eligible beneficiaries may combine benefit units to receive
21 more approved services per day as long as the total number of
22 lifetime benefit units has not been exceeded.

23 **Sec. 7.** RCW 50B.04.070 and 2019 c 363 s 8 are each amended to
24 read as follows:

25 (1) Benefits provided under this chapter shall be paid
26 periodically and promptly to registered long-term services and
27 supports providers(~~-~~

28 ~~-2-))~~ who provide approved services to:

29 (a) Eligible beneficiaries in Washington if the long-term
30 services and supports provider is registered with the department of
31 social and health services; and

32 (b) Eligible beneficiaries outside Washington if the long-term
33 services and supports providers meet minimum standards established by
34 the department.

35 (2) Qualified family members may be paid for approved personal
36 care services in the same way as individual providers, through a
37 licensed home care agency, or through a third option if recommended
38 by the commission and adopted by the department of social and health
39 services.

1 **Sec. 8.** RCW 50B.04.100 and 2019 c 363 s 11 are each amended to
2 read as follows:

3 (1) The long-term services and supports trust account is created
4 in the custody of the state treasurer. All receipts from employers
5 under RCW 50B.04.080 and from out-of-state participants under section
6 2 of this act must be deposited in the account. Expenditures from the
7 account may be used for the administrative activities of the
8 department of social and health services, the health care authority,
9 and the employment security department. Benefits associated with the
10 program must be disbursed from the account by the department of
11 social and health services. Only the secretary of the department of
12 social and health services or the secretary's designee may authorize
13 disbursements from the account. The account is subject to the
14 allotment procedures under chapter 43.88 RCW. An appropriation is
15 required for administrative expenses, but not for benefit payments.
16 The account must provide reimbursement of any amounts from other
17 sources that may have been used for the initial establishment of the
18 program.

19 (2) The revenue generated pursuant to this chapter shall be
20 utilized to expand long-term care in the state. These funds may not
21 be used either in whole or in part to supplant existing state or
22 county funds for programs that meet the definition of approved
23 services.

24 (3) The moneys deposited in the account must remain in the
25 account until expended in accordance with the requirements of this
26 chapter. If moneys are appropriated for any purpose other than
27 supporting the long-term services and supports program, the
28 legislature shall notify each qualified individual by mail that the
29 person's premiums have been appropriated for an alternate use,
30 describe the alternate use, and state its plan for restoring the
31 funds so that premiums are not increased and benefits are not
32 reduced.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 50B.04
34 RCW to read as follows:

35 (1) In carrying out this chapter, discrimination against any
36 person based upon race, gender, age, or preexisting condition is
37 prohibited.

38 (2) The department of social and health services shall adopt
39 rules to prohibit discrimination pursuant to this section, which

1 shall govern all state agencies and all persons and entities involved
2 in implementing this chapter, including but not limited to long-term
3 services and supports providers.

4 (3) The prohibition against discrimination adopted in this
5 section shall equally protect in state participants and out-of-state
6 participants under section 2 of this act.

7 (4) The prohibition against discrimination will ensure that the
8 program is implemented uniformly and that all program participants
9 are treated fairly and protected from discrimination regardless of
10 the laws in their home state.

11 (5) The prohibitions provided in this section are additional and
12 supplemental to existing protections against discrimination under
13 federal, state, and local laws, including chapter 49.60 RCW, as may
14 be applicable.

15 NEW SECTION. **Sec. 10.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2025.

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