

HOUSE BILL REPORT

SHB 2467

As Passed House:
February 12, 2024

Title: An act relating to increasing access to the long-term services and supports trust program by allowing participants who move out-of-state the option of maintaining benefit eligibility or opting out, and by prohibiting discrimination including based upon race, gender, age, or preexisting condition.

Brief Description: Increasing access to the long-term services and supports trust.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Macri, Chopp, Thai, Bateman and Pollet).

Brief History:

Committee Activity:

Health Care & Wellness: 1/26/24, 1/30/24 [DPS].

Floor Activity:

Passed House: 2/12/24, 58-39.

Brief Summary of Substitute Bill

- Allows persons who have left Washington to elect to continue participation in the Long-Term Services and Supports Trust Program (Trust Program) if they have been assessed the premium for at least three years in which they worked the minimum number of qualifying hours in Washington.
- Prohibits discrimination against persons based upon race, gender, age, or preexisting condition under the Trust Program.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by 12 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Bronoske, Davis, Harris, Macri, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Minority Report: Without recommendation. Signed by 5 members: Representatives Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Caldier, Graham and Maycumber.

Staff: Chris Blake (786-7392).

Background:

The Long-Term Services and Supports Trust Program (Trust Program) provides long-term care benefits to persons who have paid into the Trust Program for a specific period of time and who have been assessed as needing a certain amount of assistance with activities of daily living. The Trust Program is administered jointly by the Department of Social and Health Services, the Employment Security Department, and the Health Care Authority.

The Trust Program is funded through a 0.58 percent premium assessment on an employee's wages. An employee in Washington may become a qualified individual under the Trust Program if they have paid the premium assessment for either three of the last six or years or a total of ten years with no more than a five-year interruption. A qualified individual may be eligible to receive benefits if the person is a Washington resident, is at least 18 years old, and has been assessed as needing assistance with at least three activities of daily living. Eligible beneficiaries may receive benefits in the form of benefit units that the Department of Social and Health Services pays to long-term services and support providers. The premium assessment began July 1, 2023, and eligible beneficiaries may begin receiving benefits on July 1, 2026.

Summary of Substitute Bill:

Out-of-State Participation in the Long-Term Services and Supports Trust Program.

Beginning July 1, 2026, employees or self-employed persons who have left Washington may elect to continue participation in the Long-Term Services and Supports Trust Program (Trust Program). The option is available to persons who have been assessed premiums under the Trust Program for at least three years in which they worked at least 500 hours in Washington. A person must notify the Employment Security Department (ESD) of the decision to continue coverage within one year of establishing a primary residence outside of Washington.

An out-of-state participant may become eligible to receive benefits under the Trust Program beginning January 1, 2030. To become an eligible beneficiary, an out-of-state qualified individual must apply to the Department of Social and Health Services (DSHS) and undergo an eligibility determination. The eligibility determination must evaluate whether the individual:

1. is unable to perform without substantial assistance, at least two of the following activities of daily living for at least 90 days: eating, toileting, transferring, bathing, dressing, or continence; or
2. requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairments.

Entities that provide services to out-of-state participants must meet care provision and program administration standards established by the DSHS and be appropriately credentialed in the jurisdiction in which the services are being provided.

Out-of-state participants must report their wages or self-employment earnings and provide documentation to the ESD. After age 67, out-of-state participants are no longer required to provide documentation to the ESD, but if they earn wages or self-employment income, they must submit reports of wages or self-employment earnings and remit premiums. The coverage may be canceled if the out-of-state participant fails to make payments or submit reports.

The ESD must adopt standards for the manner and timing of reporting and document submission for out-of-state participants, collect premiums from out-of-state participants, and verify the wages or self-employment earnings reported by out-of-state participants.

Prohibition on Discrimination.

Discrimination against persons based upon race, gender, age, or preexisting condition is prohibited under the Trust Program. The DSHS must adopt rules to prohibit discrimination in the Trust Program to apply to all state agencies, persons, and entities implementing the chapter. These prohibitions apply to both in-state and out-of-state participants as well as entities providing services to eligible beneficiaries outside Washington. The prohibitions are additional and supplemental to existing protections against discrimination under federal, state, and local laws.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2025.

Staff Summary of Public Testimony:

(In support) Many people are familiar with the challenges that caring for disabled or elderly family members can present, including the expense of caring for people, lost work, and emotional toll. In regions where there are higher rates of poverty and disability for working adults, many try to meet their care needs with available resources, but sometimes those are not in the same place as the person. Making this benefit available to people who move out of state so that those who have paid into the Long-Term Services and Supports Trust

Program (Trust Program) may continue their Trust Program coverage is a great expansion to the policy.

Seventy percent of Washingtonians will need long-term care, and more than 3 million Washingtonians are relying on the Trust Program to help pay for support. It is challenging to have a program that can only be accessed within Washington when people who are otherwise eligible for the benefits choose to move out of state. Portability is an issue of substantial interest to consumers. This bill supports people as they age, helps them age in place, and supports family caregivers.

(Opposed) None.

(Other) Getting some Washington workers a less bad deal is not the way to solve the shortcomings of the Trust Program. While this bill attempts to fix one of the many problems with the Trust Program, it creates new ones. Solvency of the Trust Program is already questionable. The Long-Term Services and Supports Trust Commission said that to offer portability in a cost-neutral way, other parameters will need to change for all workers. This bill sets up different health criteria and delays timelines. This bill takes away people's health and financial choices. Services provided in another state must have Washington's permission. The lifetime benefit is not enough, and placing the burden of providing care and paying on residents of other states ensures benefits to as few people as possible even as the state is saying that people can have peace of mind about the Trust Program.

Persons Testifying: (In support) Representative Nicole Macri, prime sponsor; Lauri St. Ours, Washington Health Care Association; Laura Cepoi, Olympic Area Agency on Aging; and Cathy MacCaul, AARP Washington State.

(Other) Elizabeth Hovde, Washington Policy Center.

Persons Signed In To Testify But Not Testifying: None.