
HOUSE BILL 1636

State of Washington

65th Legislature

2017 Regular Session

By Representatives Jenkins, Johnson, Tharinger, and Harris

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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