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**HOUSE BILL 1636**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Jinkins, Johnson, Tharinger, Harris, Appleton, and Fey

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) "Employer" means:

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

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

(c) Any unit of local government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The commission shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The establishment of operational standards for the program that must be met by registered long-term services and supports providers and health care providers registered to conduct assessments and penalties for the violation of the operational standards;

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

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

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

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

(a) Is at least eighteen years old;

(b) Is a Washington resident;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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