
SENATE BILL 5331

State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo, Honeyford, Cleveland, Walsh, Randall, King, Frockt, Billig, Conway, Dhingra, Keiser, Kuderer, Pedersen, Saldaña, and Warnick

Read first time 01/17/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to long-term services and supports; amending RCW
2 74.39A.076 and 18.88B.041; and adding a new chapter to Title 50A RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Long-term care is not covered by medicare or other health
6 insurance plans, and the few private long-term care insurance plans
7 that exist are unaffordable for most people, leaving more than ninety
8 percent of seniors uninsured for long-term care. The current market
9 for long-term care insurance is broken: In 2002, there were one
10 hundred two companies offering long-term care insurance coverage, but
11 today that number is only twelve.

12 (2) The majority of people over sixty-five years of age will need
13 long-term services and supports within their lifetimes. The senior
14 population has doubled in Washington since 1980, to currently over
15 one million, and will more than double again by 2040. Without access
16 to insurance, seniors must rely on family care and spend their life
17 savings down to poverty levels in order to access long-term care
18 through medicaid. In Washington, more than eight hundred fifty
19 thousand unpaid family caregivers provided care valued at eleven
20 billion dollars in 2015. Furthermore, family caregivers who leave the
21 workforce to provide unpaid long-term services and supports lose an

1 average of three hundred thousand dollars in their own income and
2 health and retirement benefits.

3 (3) Paying out-of-pocket for long-term care is expensive. In
4 Washington, the average cost for medicaid in-home care is twenty-four
5 thousand dollars per year and the average cost for nursing home care
6 is sixty-five thousand dollars per year. These are costs that most
7 seniors cannot afford.

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

14 (5) Long-term services and supports comprise approximately six
15 percent of the state operating budget, and demand for these services
16 will double by 2030 to over twelve percent. This will result in an
17 additional six billion dollars in increased near-general fund costs
18 for the state by 2030.

19 (6) An alternative funding mechanism for long-term care access in
20 Washington state could relieve hardship on families and lessen the
21 burden of medicaid on the state budget. In addition, an alternative
22 funding mechanism could result in positive economic impact to our
23 state through increased state competition and fewer Washingtonians
24 leaving the workforce to provide unpaid care.

25 (7) The average aging and long-term supports administration
26 medicaid consumer utilizes ninety-six hours of care per month. At
27 current costs, a one hundred dollars per day benefit for three
28 hundred sixty-five days would provide complete financial relief for
29 the average in-home care consumer and substantial relief for the
30 average facility care consumer for a full year or more.

31 (8) Under current caseload and demographic projections, an
32 alternative funding mechanism for long-term care access could save
33 the medicaid program eight hundred ninety-eight million dollars in
34 the 2051-2053 biennium.

35 (9) As the state pursues an alternative funding mechanism for
36 long-term care access, the state must continue its commitment to
37 promoting choice in approved services and long-term care settings.
38 Therefore, any alternative funding mechanism program should be
39 structured such that:

1 (a) Individuals are able to use their benefits for long-term care
2 services in the setting of their choice, whether in the home, a
3 residential community-based setting, or a skilled nursing facility;

4 (b) The choice of provider types and approved services is the
5 same or greater than currently available through Washington's
6 publicly funded long-term services and supports;

7 (c) Transitions from private and public funding sources for
8 consumers are seamless; and

9 (d) Long-term care health status data is collected across all
10 home and community-based settings.

11 (10) The creation of a long-term care insurance benefit of an
12 established dollar amount per day for three hundred sixty-five days
13 each year for all eligible Washington employees, paid through an
14 employee payroll premium, is in the best interest of the state of
15 Washington.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires
18 otherwise.

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

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

23 (a) Adult day services;

24 (b) Care transition coordination;

25 (c) Memory care;

26 (d) Adaptive equipment and technology;

27 (e) Environmental modification;

28 (f) Personal emergency response system;

29 (g) Home safety evaluation;

30 (h) Respite for family caregivers;

31 (i) Home delivered meals;

32 (j) Transportation;

33 (k) Dementia supports;

34 (l) Education and consultation;

35 (m) Evidence-based interventions designed to improve health and
36 well-being, including:

37 (i) Eligible relative care;

38 (ii) Professional services; and

1 (iii) Services that assist paid and unpaid family members caring
2 for eligible individuals, including training for individuals
3 providing care who are not otherwise employed as long-term care
4 workers under RCW 74.39A.074;

5 (n) In-home personal care;

6 (o) Assisted living services;

7 (p) Adult family home services; and

8 (q) Nursing home services.

9 (3) "Benefit unit" means up to one hundred dollars, increasing at
10 a three percent index subject to annual commission approval, paid by
11 the department of social and health services to a long-term services
12 and supports provider as reimbursement for approved services provided
13 to an eligible beneficiary on a specific date.

14 (4) "Commission" means the long-term services and supports trust
15 commission established in section 4 of this act.

16 (5) "Eligible beneficiary" means a qualified individual who has
17 been determined to meet the minimum level of assistance with
18 activities of daily living necessary to receive benefits through the
19 trust program, as established in this chapter.

20 (6) (a) "Employee" means an individual who is in the employment of
21 an employer.

22 (b) "Employee" does not include employees of the United States of
23 America.

24 (7) (a) "Employer" means: (i) Any individual or type of
25 organization, including any partnership, association, trust, estate,
26 joint stock company, insurance company, limited liability company, or
27 corporation, whether domestic or foreign, or the receiver, trustee in
28 bankruptcy, trustee, or the legal representative of a deceased
29 person, having any person in employment or, having become an
30 employer, has not ceased to be an employer as provided in this
31 chapter; (ii) the state, state institutions, and state agencies; and
32 (iii) any unit of local government including, but not limited to, a
33 county, city, town, municipal corporation, quasi-municipal
34 corporation, or political subdivision.

35 (b) "Employer" does not include the United States of America.

36 (8) (a) "Employment" means personal service, of whatever nature,
37 unlimited by the relationship of master and servant as known to the
38 common law or any other legal relationship performed for wages or
39 under any contract calling for the performance of personal services,
40 written or oral, express or implied. The term "employment" includes

1 an individual's entire service performed within or without or both
2 within and without this state, if:

3 (i) The service is localized in this state; or

4 (ii) The service is not localized in any state, but some of the
5 service is performed in this state; and

6 (A) The base of operations of the employee is in the state, or if
7 there is no base of operations, then the place from which such
8 service is directed or controlled is in this state; or

9 (B) The base of operations or place from which such service is
10 directed or controlled is not in any state in which some part of the
11 service is performed, but the individual's residence is in this
12 state.

13 (b) "Employment" does not include:

14 (i) Services for remuneration when it is shown to the
15 satisfaction of the commissioner of the employment security
16 department that:

17 (A) (I) Such individual has been and will continue to be free from
18 control or direction over the performance of such service, both under
19 the individual's contract of service and in fact;

20 (II) Such service is either outside the usual course of business
21 for which such service is performed, or that such service is
22 performed outside of all the places of business of the enterprises
23 for which such service is performed; and

24 (III) Such individual is customarily engaged in an independently
25 established trade, occupation, profession, or business, of the same
26 nature as that involved in the contract of service; or

27 (B) As a separate alternative:

28 (I) Such individual has been and will continue to be free from
29 control or direction over the performance of such service, both under
30 the individual's contract of service and in fact;

31 (II) Such service is either outside the usual course of business
32 for which such service is performed, or that such service is
33 performed outside of all the places of business of the enterprises
34 for which such service is performed, or the individual is
35 responsible, both under the contract and in fact, for the costs of
36 the principal place of business from which the service is performed;

37 (III) Such individual is customarily engaged in an independently
38 established trade, occupation, profession, or business, of the same
39 nature as that involved in the contract of service, or such
40 individual has a principal place of business for the work the

1 individual is conducting that is eligible for a business deduction
2 for federal income tax purposes;

3 (IV) On the effective date of the contract of service, such
4 individual is responsible for filing at the next applicable filing
5 period, both under the contract of service and in fact, a schedule of
6 expenses with the internal revenue service for the type of business
7 the individual is conducting;

8 (V) On the effective date of the contract of service, or within a
9 reasonable period after the effective date of the contract, such
10 individual has established an account with the department of revenue,
11 and other state agencies as required by the particular case, for the
12 business the individual is conducting for the payment of all state
13 taxes normally paid by employers and businesses and has registered
14 for and received a unified business identifier number from the state
15 of Washington; and

16 (VI) On the effective date of the contract of service, such
17 individual is maintaining a separate set of books or records that
18 reflect all items of income and expenses of the business which the
19 individual is conducting; or

20 (ii) Services that require registration under chapter 18.27 RCW
21 or licensing under chapter 19.28 RCW rendered by an individual when:

22 (A) The individual has been and will continue to be free from
23 control or direction over the performance of the service, both under
24 the contract of service and in fact;

25 (B) The service is either outside the usual course of business
26 for which the service is performed, or the service is performed
27 outside of all the places of business of the enterprise for which the
28 service is performed, or the individual is responsible, both under
29 the contract and in fact, for the costs of the principal place of
30 business from which the service is performed;

31 (C) The individual is customarily engaged in an independently
32 established trade, occupation, profession, or business, of the same
33 nature as that involved in the contract of service, or the individual
34 has a principal place of business for the business the individual is
35 conducting that is eligible for a business deduction for federal
36 income tax purposes, other than that furnished by the employer for
37 which the business has contracted to furnish services;

38 (D) On the effective date of the contract of service, the
39 individual is responsible for filing at the next applicable filing
40 period, both under the contract of service and in fact, a schedule of

1 expenses with the internal revenue service for the type of business
2 the individual is conducting;

3 (E) On the effective date of the contract of service, or within a
4 reasonable period after the effective date of the contract, the
5 individual has an active and valid certificate of registration with
6 the department of revenue, and an active and valid account with any
7 other state agencies as required by the particular case, for the
8 business the individual is conducting for the payment of all state
9 taxes normally paid by employers and businesses and has registered
10 for and received a unified business identifier number from the state
11 of Washington;

12 (F) On the effective date of the contract of service, the
13 individual is maintaining a separate set of books or records that
14 reflect all items of income and expenses of the business that the
15 individual is conducting; and

16 (G) On the effective date of the contract of service, the
17 individual has a valid contractor registration pursuant to chapter
18 18.27 RCW or an electrical contractor license pursuant to chapter
19 19.28 RCW.

20 (9) "Long-term services and supports provider" means an entity
21 that meets the qualifications applicable in law to the approved
22 service they provide, including a qualified or certified home care
23 aide, licensed assisted living facility, licensed adult family home,
24 licensed nursing home, licensed in-home services agency, adult day
25 health program, vendor, instructor, qualified family member, or other
26 entities as registered by the department of social and health
27 services.

28 (10) "Premium" or "premiums" means the payments required by
29 section 8 of this act and paid to the employment security department
30 for deposit in the account created in section 10 of this act.

31 (11) "Program" means the long-term services and supports trust
32 program established in this chapter.

33 (12) "Qualified family member" means a relative of an eligible
34 beneficiary qualified to meet requirements established in state law
35 for the approved service they provide that would be required of any
36 other long-term services and supports provider to receive payments
37 from the state.

38 (13) "Qualified individual" means an individual who meets the
39 age, residence, and duration of payment requirements, as established

1 in this chapter, and has not exhausted the lifetime limit of benefit
2 units.

3 (14) "Wages" has the same meaning as defined in RCW 50A.04.010,
4 except that all wages are subject to a premium assessment and not
5 limited by the commissioner of the employment security department, as
6 provided under RCW 50A.04.115.

7 NEW SECTION. **Sec. 3.** (1) The health care authority, the
8 department of social and health services, and the employment security
9 department each have distinct responsibilities in the implementation
10 and administration of the program. In the performance of their
11 activities, they shall actively collaborate to realize program
12 efficiencies and provide persons served by the program with a well-
13 coordinated experience.

14 (2) The health care authority shall:

15 (a) Make determinations regarding an individual's status as a
16 qualified individual under section 5 of this act;

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

21 (c) Establish criteria for the payment of benefits to registered
22 long-term services and supports providers under section 7 of this
23 act; and

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

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

28 (a) Make determinations regarding an individual's status as an
29 eligible beneficiary under section 6 of this act;

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

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

35 (d) Discontinue the registration of long-term services and
36 supports providers that: (i) Fail to meet the minimum qualifications
37 applicable in law to the approved service that they provide; or (ii)
38 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 section 7 of this act;

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;

16 (j) Establish rules and procedures for benefit coordination when
17 the eligible beneficiary is also funded for medicaid and other long-
18 term services and supports, including medicare, coverage through the
19 department of labor and industries, and private long-term care
20 coverage; and

21 (k) Adopt rules and procedures necessary to implement and
22 administer the activities specified in this section related to the
23 program.

24 (4) The employment security department shall:

25 (a) Collect and assess employee premiums as provided in section 8
26 of this act;

27 (b) Assist the commission in monitoring the solvency and
28 financial status of the program;

29 (c) Perform investigations to determine the compliance of premium
30 payments in section 8 of this act; and

31 (d) Adopt rules and procedures necessary to implement and
32 administer the activities specified in this section related to the
33 program.

34 NEW SECTION. **Sec. 4.** (1) The long-term services and supports
35 trust commission is established.

36 (2) The commission includes:

37 (a) Two members from each of the two largest caucuses of the
38 house of representatives, appointed by the speaker of the house of
39 representatives;

1 (b) Two members from each of the two largest caucuses of the
2 senate, appointed by the president of the senate;

3 (c) The commissioner of the employment security department, or
4 the commissioner's designee;

5 (d) The secretary of the department of social and health
6 services, or the secretary's designee;

7 (e) The director of the health care authority, or the director's
8 designee;

9 (f) One representative of the organization representing the area
10 agencies on aging;

11 (g) One representative of a home care association that represents
12 caregivers who provide services to private pay and medicaid clients;

13 (h) One representative of a union representing long-term care
14 workers;

15 (i) One representative of an organization representing retired
16 persons;

17 (j) One representative of an association representing skilled
18 nursing facilities and assisted living providers;

19 (k) One representative of an association representing adult
20 family home providers; and

21 (l) Two individuals receiving long-term services and supports, or
22 their designees, or representatives of consumers receiving long-term
23 services and supports under the program.

24 (3)(a) Other than the agency heads identified in subsection (2)
25 of this section, members of the commission are appointed for terms of
26 two years, except that the governor shall appoint the initial members
27 identified in subsection (2)(f) through (l) of this section to
28 staggered terms not to exceed four years.

29 (b) The secretary of the department of social and health
30 services, or the secretary's designee, shall serve as chair of the
31 commission. Meetings of the commission are at the call of the chair.

32 (c) Members of the commission must be compensated in accordance
33 with RCW 43.03.250 and must be reimbursed for their travel expenses
34 while on official business in accordance with RCW 43.03.050 and
35 43.03.060.

36 (4) Beginning January 1, 2021, the commission shall propose
37 recommendations to the appropriate executive agency or the
38 legislature regarding:

39 (a) The establishment of criteria for determining that an
40 individual has met the requirements to be a qualified individual as

1 established in section 5 of this act or an eligible beneficiary as
2 established in section 6 of this act;

3 (b) The establishment of criteria for minimum qualifications for
4 the registration of long-term services and supports providers who
5 provide approved services to eligible beneficiaries;

6 (c) Changes to rules or policies to improve the operation of the
7 program;

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

10 (e) The preparation of regular actuarial reports on the solvency
11 and financial status of the program.

12 NEW SECTION. **Sec. 5.** The health care authority shall deem a
13 person to be a qualified individual as provided in this chapter if
14 the person:

15 (1) Is at least eighteen years old;

16 (2) Is a Washington resident; and

17 (3) Has paid the long-term services and supports premiums
18 required by section 8 of this act for the equivalent of either:

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

21 (b) Three years within the last six years.

22 NEW SECTION. **Sec. 6.** (1) Beginning January 1, 2025, approved
23 services must be available and benefits payable to a registered long-
24 term services and supports provider on behalf of a qualified
25 individual under this section.

26 (2) A qualified individual may receive approved services and
27 benefits that are payable to a registered long-term services and
28 supports provider on behalf of a qualified individual under this
29 section if the qualified individual has been determined by the
30 department of social and health services to require assistance with
31 at least three activities of daily living.

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

35 (b) An eligible beneficiary may not receive more than the dollar
36 equivalent of three hundred sixty-five benefit units over the course
37 of the eligible beneficiary's lifetime.

1 (i) If the department of social and health services reimburses a
2 long-term services and supports provider for approved services
3 provided to an eligible beneficiary and the payment is less than the
4 benefit unit, the department of social and health services shall
5 credit the unused portion of the benefit unit to the eligible
6 beneficiary for future use.

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

10 NEW SECTION. **Sec. 7.** (1) Benefits provided under this chapter
11 shall be paid periodically and promptly to registered long-term
12 services and supports providers.

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

18 NEW SECTION. **Sec. 8.** (1) Beginning January 1, 2022, the
19 employment security department shall assess for each individual in
20 employment with an employer for at least ten percent of full-time
21 employment status a premium based on the amount of the individual's
22 wages. The premium is fifty-eight hundredths of one percent of the
23 individual's wages.

24 (2)(a) The employer must collect from the employees the premiums
25 provided under this section through payroll deductions and remit the
26 amounts collected to the employment security department.

27 (b) In collecting employee premiums through payroll deductions,
28 the employer shall act as the agent of the employees and shall remit
29 the amounts to the employment security department as required by this
30 chapter.

31 (3)(a) Premiums shall be collected in the manner and at such
32 intervals as provided in this chapter and directed by the employment
33 security department.

34 (b) To the extent feasible, the employment security department
35 shall use the premium assessment, collection, and reporting
36 procedures in chapter 50A.04 RCW.

1 (4) The employment security department shall deposit all premiums
2 collected in this section in the long-term services and supports
3 trust account created in section 10 of this act.

4 (5) Premiums collected in this section are placed in trust for
5 the individuals that the program is intended to assist.

6 NEW SECTION. **Sec. 9.** (1) Beginning January 1, 2023, any self-
7 employed person, including a sole proprietor, independent contractor,
8 partner, or joint venturer, may elect coverage under this chapter.
9 Those electing coverage under this subsection are responsible for
10 payment of one hundred percent of all premiums assessed to an
11 employee under section 8 of this act. The self-employed person must
12 file a notice of election in writing with the employment security
13 department, in the manner required by the employment security
14 department in rule. The self-employed person is eligible for benefits
15 after paying the long-term services and supports premium for the time
16 required under section 5 of this act.

17 (2) A self-employed person who has elected coverage may withdraw
18 from coverage, at such times as the employment security department
19 may adopt by rule, by filing a notice of withdrawal in writing with
20 the employment security department, with the withdrawal to take
21 effect not sooner than thirty days after filing the notice with the
22 employment security department.

23 (3) The employment security department may cancel elective
24 coverage if the self-employed person fails to make required payments
25 or file reports. The employment security department may collect due
26 and unpaid premiums and may levy an additional premium for the
27 remainder of the period of coverage. The cancellation must be
28 effective no later than thirty days from the date of the notice in
29 writing advising the self-employed person of the cancellation.

30 (4) Those electing coverage are considered employers or employees
31 where the context so dictates.

32 (5) For the purposes of this section, "independent contractor"
33 means an individual excluded from the definition of "employment" in
34 section 2(8)(b) of this act.

35 (6) The employment security department shall adopt rules for
36 determining the hours worked and the wages of individuals who elect
37 coverage under this section and rules for enforcement of this
38 section.

1 NEW SECTION. **Sec. 10.** (1) The long-term services and supports
2 trust account is created in the state treasury. All receipts from
3 employers under section 8 of this act must be deposited in the
4 account. Expenditures from the account may be used for the
5 administrative activities and payment of benefits associated with the
6 program. Only the secretary of the department of social and health
7 services or the secretary's designee may authorize disbursements from
8 the account. The account is subject to the allotment procedures under
9 chapter 43.88 RCW. The account must provide reimbursement of any
10 amounts from other sources that may have been used for the initial
11 establishment of the program.

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

17 NEW SECTION. **Sec. 11.** (1) Determinations made by the health
18 care authority or the department of social and health services under
19 this chapter, including determinations regarding functional
20 eligibility or related to registration of long-term services and
21 supports providers, are subject to appeal in accordance with chapter
22 34.05 RCW. In addition, the standards and procedures adopted for
23 these appeals must address the following:

- 24 (a) Timelines;
- 25 (b) Eligibility and benefit determination;
- 26 (c) Judicial review; and
- 27 (d) Fees.

28 (2) Determinations made by the employment security department
29 under this chapter are subject to appeal in accordance with the
30 appeal procedures under chapter 50A.04 RCW. The employment security
31 department shall adopt standards and procedures for appeals for
32 persons aggrieved by any determination or redetermination made by the
33 department. The standards and procedures must be consistent with
34 those adopted for the family and medical leave program under chapter
35 50A.04 RCW and must address topics including:

- 36 (a) Premium liability;
- 37 (b) Premium collection;
- 38 (c) Judicial review; and
- 39 (d) Fees.

1 NEW SECTION. **Sec. 12.** The department of social and health
2 services must:

3 (1) Seek access to medicare data from the federal centers for
4 medicare and medicaid services to analyze the potential savings in
5 medicare expenditures due to the operation of the program;

6 (2) Apply for a demonstration waiver from the federal centers for
7 medicare and medicaid services to allow for the state to share in the
8 savings generated in the federal match for medicaid long-term
9 services and supports and medicare due to the operation of the
10 program;

11 (3) Submit a report, in compliance with RCW 43.01.036, on the
12 status of the waiver to the office of financial management and the
13 appropriate committees of the legislature by December 1, 2022.

14 NEW SECTION. **Sec. 13.** Beginning December 1, 2026, and annually
15 thereafter, and in compliance with RCW 43.01.036, the long-term
16 services and supports trust commission shall report to the
17 legislature on the program, including:

18 (1) Projected and actual program participation;

19 (2) Adequacy of premium rates;

20 (3) Fund balances;

21 (4) Benefits paid;

22 (5) Demographic information on program participants, including
23 age, gender, race, ethnicity, geographic distribution by county,
24 legislative district, and employment sector; and

25 (6) The extent to which the operation of the program has resulted
26 in savings to the medicaid program by avoiding costs that would have
27 otherwise been the responsibility of the state.

28 NEW SECTION. **Sec. 14.** Any benefits used by an individual under
29 this chapter are not income for any determinations of eligibility for
30 any other state program or benefit.

31 **Sec. 15.** RCW 74.39A.076 and 2018 c 220 s 1 are each amended to
32 read as follows:

33 (1) Beginning January 7, 2012, except for long-term care workers
34 exempt from certification under RCW 18.88B.041(1) (a):

35 (a) A biological, step, or adoptive parent who is the individual
36 provider only for ((his—~~or—~~her)) the person's developmentally
37 disabled son or daughter must receive twelve hours of training

1 relevant to the needs of adults with developmental disabilities
2 within the first one hundred twenty days after becoming an individual
3 provider.

4 (b) A spouse or registered domestic partner who is a long-term
5 care worker only for a spouse or domestic partner, pursuant to the
6 long-term services and supports trust program established in chapter
7 50A.--- RCW (the new chapter created in section 17 of this act), must
8 receive fifteen hours of training relevant to the needs of adults
9 with disabilities, and at least six hours of additional focused
10 training based on the care-receiving spouse's or partner's needs,
11 within the first one hundred twenty days after becoming a long-term
12 care worker.

13 (c) A person working as an individual provider who (i) provides
14 respite care services only for individuals with developmental
15 disabilities receiving services under Title 71A RCW or only for
16 individuals who receive services under this chapter, and (ii) works
17 three hundred hours or less in any calendar year, must complete
18 fourteen hours of training within the first one hundred twenty days
19 after becoming an individual provider. Five of the fourteen hours
20 must be completed before becoming eligible to provide care, including
21 two hours of orientation training regarding the caregiving role and
22 terms of employment and three hours of safety training. The training
23 partnership identified in RCW 74.39A.360 must offer at least twelve
24 of the fourteen hours online, and five of those online hours must be
25 individually selected from elective courses.

26 ~~((e))~~ (d) Individual providers identified in ~~((e))~~ (d)(i) or
27 (ii) of this subsection must complete thirty-five hours of training
28 within the first one hundred twenty days after becoming an individual
29 provider. Five of the thirty-five hours must be completed before
30 becoming eligible to provide care. Two of these five hours shall be
31 devoted to an orientation training regarding an individual provider's
32 role as caregiver and the applicable terms of employment, and three
33 hours shall be devoted to safety training, including basic safety
34 precautions, emergency procedures, and infection control. Individual
35 providers subject to this requirement include:

36 (i) An individual provider caring only for ~~((his or her))~~ the
37 individual provider's biological, step, or adoptive child or parent
38 unless covered by (a) of this subsection; and

39 (ii) A person working as an individual provider who provides
40 twenty hours or less of care for one person in any calendar month.

1 (2) In computing the time periods in this section, the first day
2 is the date of hire.

3 (3) Only training curriculum approved by the department may be
4 used to fulfill the training requirements specified in this section.
5 The department shall only approve training curriculum that:

6 (a) Has been developed with input from consumer and worker
7 representatives; and

8 (b) Requires comprehensive instruction by qualified instructors.

9 (4) The department shall adopt rules to implement this section.

10 **Sec. 16.** RCW 18.88B.041 and 2015 c 152 s 1 are each amended to
11 read as follows:

12 (1) The following long-term care workers are not required to
13 become a certified home care aide pursuant to this chapter:

14 (a) (i) (A) Registered nurses, licensed practical nurses, certified
15 nursing assistants or persons who are in an approved training program
16 for certified nursing assistants under chapter 18.88A RCW, medicare-
17 certified home health aides, or other persons who hold a similar
18 health credential, as determined by the secretary, or persons with
19 special education training and an endorsement granted by the
20 superintendent of public instruction, as described in RCW
21 28A.300.010, if the secretary determines that the circumstances do
22 not require certification.

23 (B) A person who was initially hired as a long-term care worker
24 prior to January 7, 2012, and who completes all of (~~his or her~~) the
25 training requirements in effect as of the date (~~he or she~~) the
26 person was hired.

27 (ii) Individuals exempted by (a) (i) of this subsection may obtain
28 certification as a home care aide without fulfilling the training
29 requirements in RCW 74.39A.074(1)(d)(ii) but must successfully
30 complete a certification examination pursuant to RCW 18.88B.031.

31 (b) All long-term care workers employed by community residential
32 service businesses.

33 (c) An individual provider caring only for (~~his or her~~) the
34 individual provider's biological, step, or adoptive child or parent.

35 (d) A person working as an individual provider who provides
36 twenty hours or less of care for one person in any calendar month.

37 (e) A person working as an individual provider who only provides
38 respite services and works less than three hundred hours in any
39 calendar year.

1 (f) A long-term care worker providing approved services only for
2 a spouse or registered domestic partner, pursuant to the long-term
3 services and supports trust program established in chapter 50A.---
4 RCW (the new chapter created in section 17 of this act).

5 (2) A long-term care worker exempted by this section from the
6 training requirements contained in RCW 74.39A.074 may not be
7 prohibited from enrolling in training pursuant to that section.

8 (3) The department shall adopt rules to implement this section.

9 NEW SECTION. **Sec. 17.** Sections 1 through 14 of this act
10 constitute a new chapter in Title 50A RCW.

--- **END** ---