
HOUSE BILL 1742

State of Washington

67th Legislature

2022 Regular Session

By Representatives Schmick, Jacobsen, and Graham

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1 AN ACT Relating to creating fairness in the operation of the
2 long-term services and supports trust program; and amending RCW
3 50B.04.010, 50B.04.020, 50B.04.030, 50B.04.060, 50B.04.070,
4 50B.04.080, 50B.04.085, 50B.04.100, 50B.04.140, and 48.83.170.

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

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

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

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

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

- 14 (a) Adult day services;
- 15 (b) Care transition coordination;
- 16 (c) Memory care;
- 17 (d) Adaptive equipment and technology;
- 18 (e) Environmental modification;
- 19 (f) Personal emergency response system;
- 20 (g) Home safety evaluation;
- 21 (h) Respite for family caregivers;

1 (i) Home delivered meals;
2 (j) Transportation;
3 (k) Dementia supports;
4 (l) Education and consultation;
5 (m) Eligible relative care;
6 (n) Professional services;
7 (o) Services that assist paid and unpaid family members caring
8 for eligible individuals, including training for individuals
9 providing care who are not otherwise employed as long-term care
10 workers under RCW 74.39A.074;
11 (p) In-home personal care;
12 (q) Assisted living services;
13 (r) Adult family home services; and
14 (s) Nursing home services.

15 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
16 by the department of social and health services to (a) a long-term
17 services and supports provider as reimbursement for approved services
18 provided to an eligible beneficiary receiving approved supports in
19 Washington on a specific date, or (b) an eligible beneficiary
20 residing outside of Washington and receiving approved services in
21 accordance with RCW 50B.04.070. The benefit unit must be adjusted
22 annually at a rate no greater than the Washington state consumer
23 price index, as determined solely by the council. Any changes adopted
24 by the council shall be subject to revision by the legislature.

25 (4) "Commission" means the long-term services and supports trust
26 commission established in RCW 50B.04.030.

27 (5) "Council" means the long-term services and supports trust
28 council established in RCW 50B.04.040.

29 (6) "Eligible beneficiary" means a qualified individual who is
30 age (~~eighteen~~) 18 or older, (~~residing in the state of~~
31 ~~Washington,~~) has been determined to meet the minimum level of
32 assistance with activities of daily living necessary to receive
33 benefits through the trust program, as established in this chapter,
34 and has not exhausted the lifetime limit of benefit units.

35 (7) "Employee" has the meaning provided in RCW 50A.05.010.

36 (8) "Employer" has the meaning provided in RCW 50A.05.010.

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

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

1 (11) "Long-term services and supports provider" means an entity
2 that meets the qualifications applicable in law to the approved
3 service they provide, including a qualified or certified home care
4 aide, licensed assisted living facility, licensed adult family home,
5 licensed nursing home, licensed in-home services agency, adult day
6 services program, vendor, instructor, qualified family member, or
7 other entities as registered by the department of social and health
8 services.

9 (12) "Premium" or "premiums" means the payments required by RCW
10 50B.04.080 and paid to the employment security department for deposit
11 in the account created in RCW 50B.04.100.

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

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

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

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

23 (17) "Wage or wages" means all remuneration paid by an employer
24 to an employee. Remuneration has the meaning provided in RCW
25 50A.05.010. All wages are subject to a premium assessment and not
26 limited by the commissioner of the employment security department, as
27 provided under RCW 50A.10.030(4).

28 **Sec. 2.** RCW 50B.04.020 and 2021 c 113 s 2 are each amended to
29 read as follows:

30 (1) The health care authority, the department of social and
31 health services, the office of the state actuary, and the employment
32 security department each have distinct responsibilities in the
33 implementation and administration of the program. In the performance
34 of their activities, they shall actively collaborate to realize
35 program efficiencies and provide persons served by the program with a
36 well-coordinated experience.

37 (2) The health care authority shall:

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

4 (b) Ensure approved services are provided to eligible
5 beneficiaries in Washington through audits or service verification
6 processes within the service provider payment system for registered
7 long-term services and supports providers and recoup any
8 inappropriate payments;

9 (c) Establish criteria for the payment of benefits on behalf of
10 eligible beneficiaries residing in Washington to registered long-term
11 services and supports providers under RCW 50B.04.070;

12 (d) Establish criteria for the payment of benefits to eligible
13 beneficiaries residing outside of Washington and receiving approved
14 services under RCW 50B.04.070;

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

20 (~~(e)~~) (f) Adopt rules and procedures necessary to implement and
21 administer the activities specified in this section related to the
22 program.

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

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

26 (b) Approve long-term services and supports eligible for payment
27 as approved services under the program, as informed by the
28 commission;

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

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

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

1 (~~(f)~~) Disburse payments to eligible beneficiaries residing
2 outside of Washington and receiving approved services under RCW
3 50B.04.070;

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

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

11 (~~(h)~~) (i) Provide administrative and operational support to the
12 commission;

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

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

18 (4) The employment security department shall:

19 (a) Collect and assess employee premiums as provided in RCW
20 50B.04.080;

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

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

27 (d) Make determinations regarding an individual's status as a
28 qualified individual under RCW 50B.04.050; and

29 (e) Adopt rules and procedures necessary to implement and
30 administer the activities specified in this section related to the
31 program.

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

33 (a) Beginning January 1, 2024, and (~~(biennially))~~ annually
34 thereafter, perform an actuarial audit and valuation of the long-term
35 services and supports trust fund. Additional or more frequent
36 actuarial audits and valuations may be performed at the request of
37 the council. Any actuarial audits and valuations must be sent to the
38 council, the commission, the governor, and the legislature;

39 (b) Make recommendations to the council and the legislature on
40 actions necessary to maintain trust solvency. The recommendations

1 must include options to redesign or reduce benefit units, approved
2 services, or both, to prevent or eliminate any unfunded actuarially
3 accrued liability in the trust or to maintain solvency; and

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

7 (6) By October 1, 2021, the employment security department and
8 the department of social and health services shall jointly conduct
9 outreach to provide employers with educational materials to ensure
10 employees are aware of the program and that the premium assessments
11 will begin on January 1, 2022. In conducting the outreach, the
12 employment security department and the department of social and
13 health services shall provide on a public website information that
14 explains the program and premium assessment in an easy to understand
15 format. Outreach information must be available in English and other
16 primary languages as defined in RCW 74.04.025.

17 **Sec. 3.** RCW 50B.04.030 and 2021 c 113 s 3 are each amended to
18 read as follows:

19 (1) The long-term services and supports trust commission is
20 established. The commission's recommendations and decisions must be
21 guided by the joint goals of maintaining benefit adequacy and
22 maintaining fund solvency and sustainability.

23 (2) The commission includes:

24 (a) Two members from each of the two largest caucuses of the
25 house of representatives, appointed by the speaker of the house of
26 representatives;

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

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

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

33 (e) The director of the health care authority, or the director's
34 designee, who shall serve as a nonvoting member;

35 (f) One representative of the organization representing the area
36 agencies on aging;

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

1 (h) One representative of a union representing long-term care
2 workers;

3 (i) One representative of an organization representing retired
4 persons;

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

7 (k) One representative of an association representing adult
8 family home providers;

9 (l) Two individuals receiving long-term services and supports, or
10 their designees, or representatives of consumers receiving long-term
11 services and supports under the program;

12 (m) One member who is a worker who is, or will likely be, paying
13 the premium established in RCW 50B.04.080 and who is not employed by
14 a long-term services and supports provider; and

15 (n) One representative of an organization of employers whose
16 members collect, or will likely be collecting, the premium
17 established in RCW 50B.04.080.

18 (3) (a) Other than the legislators and agency heads identified in
19 subsection (2) of this section, members of the commission are
20 appointed by the governor for terms of two years, except that the
21 governor shall appoint the initial members identified in subsection
22 (2)(f) through (n) of this section to staggered terms not to exceed
23 four years.

24 (b) The secretary of the department of social and health
25 services, or the secretary's designee, shall serve as chair of the
26 commission. Meetings of the commission are at the call of the chair.
27 A majority of the voting members of the commission shall constitute a
28 quorum for any votes of the commission. Approval of sixty percent of
29 those voting members of the commission who are in attendance is
30 required for the passage of any vote.

31 (c) Members of the commission and the subcommittee established in
32 subsection (6) of this section must be compensated in accordance with
33 RCW 43.03.250 and must be reimbursed for their travel expenses while
34 on official business in accordance with RCW 43.03.050 and 43.03.060.

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

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

1 established in RCW 50B.04.050 or an eligible beneficiary as
2 established in RCW 50B.04.060;

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) The establishment of payment maximums for approved services
7 consistent with actuarial soundness which shall not be lower than
8 medicaid payments for comparable services. A service or supply may be
9 limited by dollar amount, duration, or number of visits. The
10 commission shall engage affected stakeholders to develop this
11 recommendation;

12 (d) The establishment of payment standards to eligible
13 beneficiaries residing outside of Washington and receiving approved
14 services;

15 (e) Changes to rules or policies to improve the operation of the
16 program;

17 ~~((e))~~ (f) Providing a recommendation to the council for the
18 annual adjustment of the benefit unit in accordance with RCW
19 50B.04.010 and 50B.04.040. When providing recommendations regarding
20 the adjustment of the benefit unit, the commission must include a
21 comparison of the recommended adjustment to any changes to the
22 Washington state consumer price index;

23 ~~((f))~~ (g) A refund of premiums for a deceased qualified
24 individual with a dependent who is an individual with a developmental
25 disability who is dependent for support from a qualified individual.
26 The qualified individual must not have been determined to be an
27 eligible beneficiary by the department of social and health services.
28 The refund shall be deposited into an individual trust account within
29 the developmental disabilities endowment trust fund for the benefit
30 of the dependent with a developmental disability. The commission
31 shall consider:

32 (i) The value of the refund to be one hundred percent of the
33 current value of the qualified individual's lifetime premium payments
34 at the time that certification of death of the qualified individual
35 is submitted, less any administrative process fees; and

36 (ii) The criteria for determining whether the individual is
37 developmentally disabled. The determination shall not be based on
38 whether or not the individual with a developmental disability is
39 receiving services under Title 71A RCW, or another state or local
40 program;

1 ~~((g))~~ (h) Assisting the state actuary with the preparation of
2 regular actuarial reports on the solvency and financial status of the
3 program and advising the legislature on actions necessary to maintain
4 trust solvency. The commission shall provide the office of the state
5 actuary with all actuarial reports for review. The office of the
6 state actuary shall provide any recommendations to the commission and
7 the legislature on actions necessary to maintain trust solvency;

8 ~~((h))~~ (i) For the January 1, 2021, report only, recommendations
9 on whether and how to extend coverage to individuals who became
10 disabled before the age of eighteen, including the impact on the
11 financial status and solvency of the trust. The commission shall
12 engage affected stakeholders to develop this recommendation; and

13 ~~((i))~~ (j) For the January 1, 2021, report only, the commission
14 shall consult with the office of the state actuary on the development
15 of an actuarial report of the projected solvency and financial status
16 of the program. The office of the state actuary shall provide any
17 recommendations to the commission and the legislature on actions
18 necessary to achieve trust solvency.

19 (5) The commission shall monitor agency administrative expenses
20 over time. Beginning November 15, 2020, the commission must annually
21 report to the governor and the fiscal committees of the legislature
22 on agency spending for administrative expenses and anticipated
23 administrative expenses as the program shifts into different phases
24 of implementation and operation. The November 15, 2025, report must
25 include recommendations for a method of calculating future agency
26 administrative expenses to limit administrative expenses while
27 providing sufficient funds to adequately operate the program. The
28 agency heads identified in subsection (2) of this section may advise
29 the commission on the reports prepared under this subsection, but
30 must recuse themselves from the commission's process for review,
31 approval, and submission to the legislature.

32 (6) The commission shall establish an investment strategy
33 subcommittee consisting of the members identified in subsection
34 (2)(a) through (d) of this section as voting members of the
35 subcommittee. In addition, four members appointed by the governor who
36 are considered experienced and qualified in the field of investment
37 shall serve as nonvoting members. The subcommittee shall provide
38 guidance and advice to the state investment board on investment
39 strategies for the account, including seeking counsel and advice on
40 the types of investments that are constitutionally permitted.

1 (7) The commission shall work with insurers to develop long-term
2 care insurance products that supplement the program's benefit.

3 **Sec. 4.** RCW 50B.04.060 and 2019 c 363 s 7 are each amended to
4 read as follows:

5 (1) Beginning January 1, 2025(~~(, approved)~~):

6 (a) Approved services must be available and benefits payable to a
7 registered long-term services and supports provider on behalf of an
8 eligible beneficiary residing and receiving approved services in
9 Washington under this section; and

10 (b) Benefits must be payable to an eligible beneficiary residing
11 and receiving approved services outside of Washington.

12 (2) A qualified individual may become an eligible beneficiary by
13 filing an application with the department of social and health
14 services and undergoing an eligibility determination which includes
15 an evaluation that the individual requires assistance with at least
16 three activities of daily living. The department of social and health
17 services must engage sufficient qualified assessor capacity, within
18 Washington and outside of Washington, including via contract, so that
19 the determination may be made within (~~(forty-five)~~) 45 days from
20 receipt of a request by a beneficiary to use a benefit.

21 (3) (a) An eligible beneficiary may (~~(receive)~~):

22 (i) Receive approved services and benefits through the program in
23 the form of a benefit unit payable to a registered long-term services
24 and supports provider; or

25 (ii) Receive benefits through the program in the form of a
26 benefit unit payable directly to the eligible beneficiary if the
27 eligible beneficiary resides outside of Washington and receives
28 approved services.

29 (b) An eligible beneficiary may not receive more than the dollar
30 equivalent of (~~(three hundred sixty-five)~~) 365 benefit units over the
31 course of the eligible beneficiary's lifetime, whether the benefit
32 units are paid to a registered long-term services and supports
33 provider under (a)(i) of this subsection or paid directly to an
34 eligible beneficiary under (a)(ii) of this subsection.

35 (i) If the department of social and health services reimburses a
36 long-term services and supports provider for approved services
37 provided to an eligible beneficiary in Washington and the payment is
38 less than the benefit unit, only the portion of the benefit unit that

1 is used shall be taken into consideration when calculating the
2 person's remaining lifetime limit on receipt of benefits.

3 (ii) Eligible beneficiaries in Washington may combine benefit
4 units to receive more approved services per day as long as the total
5 number of lifetime benefit units has not been exceeded.

6 (iii) Eligible beneficiaries residing and receiving approved
7 services outside of Washington may receive the full amount of the
8 benefit unit per day as long as the total number of lifetime benefit
9 units has not been exceeded. An eligible beneficiary residing outside
10 of Washington may not receive less than the daily benefit unit amount
11 and may not combine benefit units. The department of social and
12 health services may require periodic eligibility redeterminations for
13 eligible beneficiaries residing outside of Washington and
14 verification that approved services are being provided to the
15 eligible beneficiary. The provider of approved services to an
16 eligible beneficiary residing outside of Washington is not required
17 to be registered with the department of social and health services.

18 **Sec. 5.** RCW 50B.04.070 and 2019 c 363 s 8 are each amended to
19 read as follows:

20 (1) Benefits provided under this chapter shall be paid
21 periodically and promptly to registered long-term services and
22 supports providers providing approved services to eligible
23 beneficiaries in Washington.

24 (2) Qualified family members providing approved services to
25 eligible beneficiaries in Washington may be paid for approved
26 personal care services in the same way as individual providers,
27 through a licensed home care agency, or through a third option if
28 recommended by the commission and adopted by the department of social
29 and health services.

30 (3) Eligible beneficiaries residing and receiving approved
31 services outside of Washington shall be paid periodically and
32 promptly. The department of social and health services may develop a
33 schedule for disbursing payments to eligible beneficiaries residing
34 outside of Washington that balances administrative efficiency and
35 fairness to the eligible beneficiary.

36 **Sec. 6.** RCW 50B.04.080 and 2020 c 98 s 4 are each amended to
37 read as follows:

1 (1) (~~Beginning~~) Unless otherwise exempted pursuant to this
2 chapter, beginning January 1, 2022, the employment security
3 department shall assess for each individual resident of Washington in
4 employment with an employer a premium based on the amount of the
5 individual's wages. The initial premium rate is (~~fifty-eight~~
6 ~~hundredths of one~~) .58 percent of the individual's wages. The
7 premium may not be assessed on an individual who resides outside of
8 Washington, regardless of the individual's employment status within
9 Washington. The premium may not be assessed on an individual who is
10 an H-2A worker, as defined in RCW 50.75.010. Beginning January 1,
11 2024, and biennially thereafter, the premium rate shall be set by the
12 pension funding council at a rate no greater than (~~fifty-eight~~
13 ~~hundredths of one~~) .58 percent. In addition, the pension funding
14 council must set the premium rate at the lowest amount necessary to
15 maintain the actuarial solvency of the long-term services and
16 supports trust account created in RCW 50B.04.100 in accordance with
17 recognized insurance principles and designed to attempt to limit
18 fluctuations in the premium rate. To facilitate the premium rate
19 setting the office of the state actuary must perform a biennial
20 actuarial audit and valuation of the fund and make recommendations to
21 the pension funding council.

22 (2) The employment security department must annually establish a
23 maximum limit on the amount of wages that is subject to a premium
24 assessment under subsection (1) of this section that is equal to the
25 maximum wages subject to taxation for social security as determined
26 by the federal social security administration.

27 (3)(a) The employer must collect from the employees the premiums
28 provided under this section through payroll deductions and remit the
29 amounts collected to the employment security department.

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

34 (~~(3)~~) (4) Nothing in this chapter requires any party to a
35 collective bargaining agreement in existence on October 19, 2017, to
36 reopen negotiations of the agreement or to apply any of the
37 responsibilities under this chapter unless and until the existing
38 agreement is reopened or renegotiated by the parties or expires.

1 ~~((4))~~ (5)(a) Premiums shall be collected in the manner and at
2 such intervals as provided in this chapter and directed by the
3 employment security department.

4 (b) To the extent feasible, the employment security department
5 shall use the premium assessment, collection, and reporting
6 procedures in Title 50A RCW.

7 ~~((5))~~ (c) The employment security department shall adopt a
8 procedure for notifying employers when an individual with multiple
9 employers has been assessed premiums to the maximum amount of
10 assessable wages specified under subsection (2) of this section.

11 (6) The employment security department shall deposit all premiums
12 collected in this section in the long-term services and supports
13 trust account created in RCW 50B.04.100.

14 ~~((6))~~ (7) Premiums collected in this section are placed in the
15 trust account for the individuals who become eligible for the
16 program.

17 ~~((7))~~ (8) If the premiums established in this section are
18 increased, the legislature shall notify each qualified individual by
19 mail that the person's premiums have been increased, describe the
20 reason for increasing the premiums, and describe the plan for
21 restoring the funds so that premiums are returned to ~~((fifty-eight~~
22 ~~hundredths of one))~~ .58 percent of the individual's wages.

23 **Sec. 7.** RCW 50B.04.085 and 2021 c 113 s 5 are each amended to
24 read as follows:

25 (1) ~~((An))~~ (a) Before January 1, 2026, an employee who attests
26 that the employee has long-term care insurance purchased before
27 ~~((November 1, 2021))~~ December 31, 2025, may apply for an exemption
28 from the premium assessment under RCW 50B.04.080. ~~((An exempt~~
29 ~~employee may not become a qualified individual or eligible~~
30 ~~beneficiary and is permanently ineligible for coverage under this~~
31 ~~title.~~

32 ~~(2)(a))~~ The employment security department must accept
33 applications for exemptions under this subsection (1)(a) only from
34 October 1, 2021, through December 31, ~~((2022))~~ 2025.

35 (b) Beginning January 1, 2026, an employee who attests that the
36 employee has purchased long-term care insurance, may apply for an
37 exemption from the premium assessment under RCW 50B.04.080. The
38 employment security department may only accept applications for an
39 exemption from October 15th through December 7th of each year.

1 (2) Only employees who are eighteen years of age or older may
2 apply for an exemption.

3 (3) The employment security department is not required to verify
4 the initial attestation of an employee that the employee has long-
5 term care insurance. The employment security department shall
6 periodically verify the long-term care insurance coverage status of
7 employees who are exempted under this section by requiring proof of
8 insurance from exempted employees and through the receipt of notices
9 sent from issuers of long-term care insurance policies related to
10 policyholders in Washington whose policies have been discontinued by
11 the policyholder or have lapsed due to failure to make timely
12 payments. If the employment security department finds that an exempt
13 employee has discontinued a long-term care insurance policy or that
14 an exempt employee's policy has lapsed, the employment security
15 department must notify the employee that the exemption under this
16 section is no longer valid and notify the employee's employer that
17 the employee's exemption under this section is no longer valid and
18 that the employee must be assessed the premium under RCW 50B.04.080
19 as of the date of reinstatement. The employee is primarily
20 responsible for communicating with the employee's employer to assure
21 that premium deductions are resumed on the date of reinstatement and
22 for the paying of all premium assessments from the date of
23 reinstatement. An exempt employee who has discontinued a policy or
24 whose policy has lapsed due to failure to make timely payments, may
25 not apply for another exemption under subsection (1) of this section.

26 (4) Approved exemptions will take effect on the first day of the
27 quarter immediately following the approval of the exemption.

28 (5) Exempt employees are not entitled to a refund of any premium
29 deductions made before the effective date of an approved exemption.

30 (6) An exempt employee must provide written notification to all
31 current and future employers of an approved exemption.

32 (7) If an exempt employee fails to notify an employer of an
33 exemption, the exempt employee is not entitled to a refund of any
34 premium deductions made before notification is provided.

35 (8) Employers must not deduct premiums after being notified by an
36 employee of an approved exemption.

37 (a) Employers must retain written notifications of exemptions
38 received from employees.

1 (b) An employer who deducts premiums after being notified by the
2 employee of an exemption is solely responsible for refunding to the
3 employee any premiums deducted after the notification.

4 (c) The employer is not entitled to a refund from the employment
5 security department for any premiums remitted to the employment
6 security department that were deducted from exempt employees.

7 (9)(a) The employment security department must adopt rules
8 necessary to implement and administer the activities specified in
9 this section related to the program, including rules on the
10 submission and processing of applications under this section.

11 (b) The office of the insurance commissioner must adopt rules to
12 require issuers of long-term care insurance policies under chapter
13 48.83 RCW to submit notices to the office, in a timely manner,
14 regarding policyholders in Washington whose policies have been
15 discontinued by the policyholder or have lapsed due to failure to
16 make timely payments. The office of the insurance commissioner and
17 the employment security department must adopt a procedure for the
18 information in the notices to be transmitted from the office of the
19 insurance commissioner to the employment security department.

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

22 (1) The long-term services and supports trust account is created
23 in the custody of the state treasurer. All receipts from employers
24 under RCW 50B.04.080 must be deposited in the account. Expenditures
25 from the account may be used for the administrative activities of the
26 department of social and health services, the health care authority,
27 and the employment security department. Benefits associated with the
28 program must be disbursed from the account by the department of
29 social and health services. Only the secretary of the department of
30 social and health services or the secretary's designee may authorize
31 disbursements from the account. The account is subject to the
32 allotment procedures under chapter 43.88 RCW. An appropriation is
33 required for administrative expenses, but not for benefit payments.
34 The account must provide reimbursement of any amounts from other
35 sources that may have been used for the initial establishment of the
36 program.

37 (2) The revenue generated pursuant to this chapter shall be
38 utilized to expand long-term care (~~in the state~~). These funds may
39 not be used either in whole or in part to supplant existing state or

1 county funds for programs that meet the definition of approved
2 services.

3 (3) The moneys deposited in the account must remain in the
4 account until expended in accordance with the requirements of this
5 chapter. If moneys are appropriated for any purpose other than
6 supporting the long-term services and supports program, the
7 legislature shall notify each qualified individual by mail that the
8 person's premiums have been appropriated for an alternate use,
9 describe the alternate use, and state its plan for restoring the
10 funds so that premiums are not increased and benefits are not
11 reduced.

12 **Sec. 9.** RCW 50B.04.140 and 2019 c 363 s 15 are each amended to
13 read as follows:

14 Beginning December 1, 2026, and annually thereafter, and in
15 compliance with RCW 43.01.036, the commission must report to the
16 legislature on the program, including:

- 17 (1) Projected and actual program participation;
18 (2) Adequacy of premium rates;
19 (3) Fund balances;
20 (4) Benefits paid;
21 (5) Demographic information on program participants, including
22 age, gender, race, ethnicity, geographic distribution by county(~~(7)~~)
23 and legislative district, and employment sector; (~~and~~)
24 (6) The number of individuals who have been issued an exemption
25 from payment of the premium assessment under RCW 50B.04.085 and
26 demographic information on exempted individuals, including age,
27 gender, race, ethnicity, income, geographic distribution by county
28 and legislative district, and employment sector; and
29 (7) The extent to which the operation of the program has resulted
30 in savings to the medicaid program by avoiding costs that would have
31 otherwise been the responsibility of the state.

32 **Sec. 10.** RCW 48.83.170 and 2013 c 8 s 2 are each amended to read
33 as follows:

- 34 (1) The commissioner must adopt rules that include standards for
35 full and fair disclosure setting forth the manner, content, and
36 required disclosures for the sale of long-term care insurance
37 policies, terms of renewability, initial and subsequent conditions of
38 eligibility, nonduplication of coverage provisions, coverage of

1 dependents, preexisting conditions, termination of insurance,
2 continuation or conversion, probationary periods, limitations,
3 exceptions, reductions, elimination periods, requirements for
4 replacement, recurrent conditions, and definitions of terms. The
5 commissioner must adopt rules establishing loss ratio standards for
6 long-term care insurance policies. The commissioner must adopt rules
7 to promote premium adequacy and to protect policyholders in the event
8 of proposed substantial rate increases, and to establish minimum
9 standards for producer education, marketing practices, producer
10 compensation, producer testing, penalties, and reporting practices
11 for long-term care insurance.

12 (2) The commissioner must adopt rules establishing standards
13 protecting patient privacy rights, rights to receive confidential
14 health care services, and standards for an issuer's timely review of
15 a claim denial upon request of a covered person.

16 (3) The commissioner must adopt by rule prompt payment
17 requirements for long-term care insurance. The rules must include a
18 definition of a "claim" and a definition of "clean claim." In
19 adopting the rules the commissioner must consider the prompt payment
20 requirements in long-term care insurance model acts developed by the
21 national association of insurance commissioners.

22 (4) The commissioner must adopt rules to require issuers of long-
23 term care insurance policies under this chapter to submit notices to
24 the office of the insurance commissioner, in a timely manner,
25 regarding policyholders in Washington whose policies have been
26 discontinued by the policyholder or have lapsed due to failure to
27 make timely payments, in accordance with RCW 50B.04.085.

28 (5) The commissioner may adopt reasonable rules to effectuate any
29 provision of this chapter in accordance with the requirements of
30 chapter 34.05 RCW.

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