

WSR 21-11-013

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 7, 2021, 1:32 p.m., effective June 7, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The adopted rules are the first of three phases of rules to implement portions of the long-term services and supports trust program in Title 50B RCW under the employment security department's (ESD) authority. The rules address exemptions from participation in the program and include rules related to eligibility and application requirements, employee and employer responsibilities, and refunds of premiums.

Citation of Rules Affected by this Order: New WAC 192-905-005 Eligibility requirements for an employee to receive an exemption from the long-term services and supports trust program, 192-905-010 How and when can an employee apply for an exemption from the long-term services and supports trust program?, 192-905-015 What happens after an employee's exemption application is processed?, and 192-905-020 Is an exempt employee entitled to a refund of premiums?

Statutory Authority for Adoption: RCW 50B.04.020, 50B.04.085.

Adopted under notice filed as WSR 21-06-110 on March 3, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 192-500-005 [192-905-005](1) was restructured to add a reference to a relevant section of statute and for ease of readability.

Original proposal: (1) An employee who has long-term care insurance as defined in RCW 48.83.020 and attests to this, may apply for an exemption from the premium assessment under RCW 50B.04.080.

Adopted rule: (1) An employee who as [has] long-term care insurance as outlined in RCW 50B.04.085 and attests to this, may apply for an exemption from the premium assessment under RCW 50B.04.080. "Long-term care insurance" has the meaning provided in RCW 48.83.020.

A final cost-benefit analysis is available by contacting April Amundson, ESD, P.O. Box 9046 Olympia, WA 98507-9046, phone 360-485-2816, Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email rules@esd.wa.gov, website <https://esd.wa.gov/newsroom/rulemaking/ltss>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: May 7, 2021.

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OTS-2844.4

**Chapter 192-905 WAC  
EXEMPTIONS**

NEW SECTION

**WAC 192-905-005 Eligibility requirements for an employee to receive an exemption from the long-term services and supports trust program.** (1) An employee who has long-term care insurance as outlined in RCW 50B.04.085 and attests to this, may apply for an exemption from the premium assessment under RCW 50B.04.080. "Long-term care insurance" has the meaning provided in RCW 48.83.020.

(2) Only an employee who is eighteen years of age or older on the date of application may apply for an exemption.

(3) The employee must provide identification that verifies their age at the time of application.

(4) The department may verify an employee's long-term care insurance coverage and may request additional information from the employee.

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NEW SECTION

**WAC 192-905-010 How and when can an employee apply for an exemption from the long-term services and supports trust program?** (1) Applications for exemption from the long-term services and supports trust program will be accepted by the department only from October 1, 2021, through December 31, 2022, per RCW 50B.04.085.

(2) If approved by the department, an employee's exemption will be effective the quarter immediately following approval.

(3) Applications for exemption will be available on the department's website or in another format approved by the department.

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NEW SECTION

**WAC 192-905-015 What happens after an employee's exemption application is processed?** (1) After an employee's exemption application is processed, the department will send the employee either:

(a) An approval letter stating the employee is exempt from the program; or

(b) A denial letter stating the reason for the denial.

(2) A determination made by the department may be appealed in accordance with RCW 50B.04.120(2).

(3) An employee who is approved for an exemption must notify any current or future employer of their exempt status by providing a copy of their approval letter to the employer.

(4) The employer must maintain a copy of the approval letter provided by the employee.

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NEW SECTION

**WAC 192-905-020 Is an exempt employee entitled to a refund of premiums?** (1) If an exempt employee fails to notify an employer of their exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification was provided.

(2) Any premium deductions made before notification was provided to the employer remain with the employer.

(3) If an employer deducts premiums after the employee provides notification of the employee's exempt status, the employer must refund the deducted premiums to the employee.

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