

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2467

Chapter 120, Laws of 2024

68th Legislature
2024 Regular Session

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—OUT-OF-STATE
PARTICIPATION AND DISCRIMINATION

EFFECTIVE DATE: June 6, 2024

Passed by the House February 12, 2024
Yeas 58 Nays 39

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate February 28,
2024
Yeas 27 Nays 21

DENNY HECK

President of the Senate

Approved March 15, 2024 9:51 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2467** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 15, 2024

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2467

Passed Legislature - 2024 Regular Session

State of Washington **68th Legislature** **2024 Regular Session**

By House Health Care & Wellness (originally sponsored by Representatives Macri, Chopp, Thai, Bateman, and Pollet)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to increasing access to the long-term services
2 and supports trust program by allowing participants who move out-of-
3 state the option of maintaining benefit eligibility or opting out,
4 and by prohibiting discrimination including based upon race, gender,
5 age, or preexisting condition; amending RCW 50B.04.010, 50B.04.020,
6 50B.04.060, 50B.04.070, and 50B.04.100; reenacting and amending RCW
7 50B.04.050; adding new sections to chapter 50B.04 RCW; creating a new
8 section; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** The purpose of this act is to preserve and
11 strengthen Washington's long-term care program by giving participants
12 who move out-of-state the option of maintaining benefit eligibility
13 or opting out, and prohibiting discrimination based upon race,
14 gender, age, or preexisting condition.

15 Extending coverage to Washington workers when they move out-of-
16 state will protect employees' investments in the state's long-term
17 care program, ensuring that eligible beneficiaries can receive long-
18 term care benefits when they need them, even if they move out-of-
19 state, while preserving the right for out-of-state participants to
20 opt out. The extension of the program will increase the state's
21 investment in long-term care services. The prohibition in this act

1 against discrimination will ensure that the program is implemented
2 uniformly and that all program participants are equally protected
3 from discrimination regardless of the laws in their home state.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 50B.04
5 RCW to read as follows:

6 (1) Beginning July 1, 2026, an employee or self-employed person,
7 who has elected coverage under RCW 50B.04.090, who relocates outside
8 of Washington may elect to continue participation in the program if:

9 (a) The employee or self-employed person has been assessed
10 premiums by the employment security department for at least three
11 years in which the employee or self-employed person has worked at
12 least 500 hours in each of those years in Washington; and

13 (b) The employee or self-employed person notifies the employment
14 security department within one year of establishing a primary
15 residence outside of Washington that the employee or self-employed
16 person is no longer a resident of Washington and elects to continue
17 participation in the program.

18 (2) Out-of-state participants under subsection (1) of this
19 section must report their wages or self-employment earnings to the
20 employment security department according to standards for manner and
21 timing of reporting and documentation submission, as adopted by rule
22 by the employment security department. An out-of-state participant
23 must submit documentation to the employment security department
24 whether or not the out-of-state participant earned wages or self-
25 employment earnings, as applicable, during the applicable reporting
26 period. When an out-of-state participant reaches the age of 67, the
27 participant is no longer required to provide the documentation of
28 their wages or self-employment earnings, but if the participant earns
29 wages or self-employment earnings, the participant must submit
30 reports of those wages or self-employment earnings and remit the
31 required premiums.

32 (3) Out-of-state participants under subsection (1) of this
33 section must provide documentation of wages and self-employment
34 earnings earned at the time that they report their wages or self-
35 employment earnings to the employment security department.

36 (4) The employment security department may cancel elective
37 coverage if the out-of-state participant fails to make required
38 payments or submit reports. The employment security department may
39 collect due and unpaid premiums and may levy an additional premium

1 for the remainder of the period of coverage. The cancellation must be
2 effective no later than 30 days from the date of the notice in
3 writing advising the out-of-state participant of the cancellation.

4 (5) The employment security department shall:

5 (a) Adopt standards by rule for the manner and timing of
6 reporting and documentation submission for out-of-state participants.
7 The employment security department must consider user experience with
8 the wage and self-employment earnings reporting process and the
9 document submission process and regularly update the standards to
10 minimize the procedural burden on out-of-state participants and
11 support the accurate reporting of wages and self-employment earnings
12 at the time of the payment of premiums;

13 (b) Collect premiums from out-of-state participants as provided
14 in RCW 50B.04.080 and 50B.04.090, as relevant to out-of-state
15 participants; and

16 (c) Verify the wages or self-employment earnings as reported by
17 an out-of-state participant.

18 (6) For the purposes of this section, "wages" includes
19 remuneration for services performed within or without or both within
20 and without this state.

21 (7) Entities providing services to an eligible beneficiary
22 outside Washington are subject to section 9 of this act and may not
23 discriminate based upon race, gender, age, or preexisting condition.

24 (8) An employee or self-employed person who has elected coverage
25 under RCW 50B.04.090 who relocates outside of Washington may elect to
26 opt out of coverage by no longer reporting wages to the department,
27 rather than become an out-of-state participant in the program.

28 (9) By extending the premium base to out-of-state participants
29 under subsection (1) of this section, this act will increase the
30 state's investment in long-term care services.

31 **Sec. 3.** RCW 50B.04.010 and 2021 c 113 s 1 are each amended to
32 read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

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

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

39 (a) Adult day services;

- 1 (b) Care transition coordination;
- 2 (c) Memory care;
- 3 (d) Adaptive equipment and technology;
- 4 (e) Environmental modification;
- 5 (f) Personal emergency response system;
- 6 (g) Home safety evaluation;
- 7 (h) Respite for family caregivers;
- 8 (i) Home delivered meals;
- 9 (j) Transportation;
- 10 (k) Dementia supports;
- 11 (l) Education and consultation;
- 12 (m) Eligible relative care;
- 13 (n) Professional services;
- 14 (o) Services that assist paid and unpaid family members caring
- 15 for eligible individuals, including training for individuals
- 16 providing care who are not otherwise employed as long-term care
- 17 workers under RCW 74.39A.074;
- 18 (p) In-home personal care;
- 19 (q) Assisted living services;
- 20 (r) Adult family home services; and
- 21 (s) Nursing home services.
- 22 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
- 23 by the department of social and health services to a long-term
- 24 services and supports provider as reimbursement for approved services
- 25 provided to an eligible beneficiary on a specific date. The benefit
- 26 unit must be adjusted annually at a rate no greater than the
- 27 Washington state consumer price index, as determined solely by the
- 28 council. Any changes adopted by the council shall be subject to
- 29 revision by the legislature.
- 30 (4) "Commission" means the long-term services and supports trust
- 31 commission established in RCW 50B.04.030.
- 32 (5) "Council" means the long-term services and supports trust
- 33 council established in RCW 50B.04.040.
- 34 (6) "Eligible beneficiary" means a qualified individual who is
- 35 age (~~eighteen~~) 18 or older, (~~residing in the state of~~
- 36 ~~Washington,~~) has been determined to meet the minimum level of
- 37 assistance with activities of daily living necessary to receive
- 38 benefits through the trust program, as established in this chapter,
- 39 and has not exhausted the lifetime limit of benefit units.
- 40 (7) "Employee" has the meaning provided in RCW 50A.05.010.

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

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

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

5 (11) "Long-term services and supports provider" means:

6 (a) For entities providing services to an eligible beneficiary in
7 Washington, an entity that meets the qualifications applicable in law
8 to the approved service they provide, including a qualified or
9 certified home care aide, licensed assisted living facility, licensed
10 adult family home, licensed nursing home, licensed in-home services
11 agency, adult day services program, vendor, instructor, qualified
12 family member, or other entities as registered by the department of
13 social and health services; and

14 (b) For entities providing services to an eligible beneficiary
15 outside Washington, an entity that meets minimum standards for care
16 provision and program administration, as established by the
17 department of social and health services, and that is appropriately
18 credentialed in the jurisdiction in which the services are being
19 provided as established by the department of social and health
20 services.

21 (12) "Premium" or "premiums" means the payments required by RCW
22 50B.04.080 and paid to the employment security department for deposit
23 in the account created in RCW 50B.04.100.

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

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

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

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

35 (17) "Wage or wages" means all remuneration paid by an employer
36 to an employee. Remuneration has the meaning provided in RCW
37 50A.05.010. All wages are subject to a premium assessment and not
38 limited by the commissioner of the employment security department, as
39 provided under RCW 50A.10.030(4).

1 **Sec. 4.** RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read
2 as follows:

3 (1) The health care authority, the department of social and
4 health services, the office of the state actuary, and the employment
5 security department each have distinct responsibilities in the
6 implementation and administration of the program. In the performance
7 of their activities, they shall actively collaborate to realize
8 program efficiencies and provide persons served by the program with a
9 well-coordinated experience.

10 (2) The health care authority shall:

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

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

18 (c) Establish criteria for the payment of benefits to registered
19 long-term services and supports providers under RCW 50B.04.070;

20 (d) Establish rules and procedures for benefit coordination when
21 the eligible beneficiary is also funded for medicaid and other long-
22 term services and supports, including medicare, coverage through the
23 department of labor and industries, and private long-term care
24 coverage; and

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

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

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

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

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

36 (d) Discontinue the registration of long-term services and
37 supports providers that: (i) Fail to meet the minimum qualifications
38 applicable in law to the approved service that they provide; or (ii)
39 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 RCW 50B.04.070;

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; (~~and~~)

16 (j) Develop criteria to deem a family member as qualified when
17 providing approved services outside of Washington; and

18 (k) Adopt rules and procedures necessary to implement and
19 administer the activities specified in this section related to the
20 program.

21 (4) The employment security department shall:

22 (a) Collect and assess employee premiums as provided in RCW
23 50B.04.080 and 50B.04.090 and section 2 of this act;

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

26 (c) Perform investigations to determine the compliance of premium
27 payments in RCW 50B.04.080 and 50B.04.090 and section 2 of this act
28 in coordination with the same activities conducted under the family
29 and medical leave act, Title 50A RCW, to the extent possible;

30 (d) Make determinations regarding an individual's status as a
31 qualified individual under RCW 50B.04.050, including criteria to
32 determine the status of persons receiving partial benefit units under
33 RCW 50B.04.050(2) and out-of-state participants under section 2 of
34 this act; and

35 (e) Adopt rules and procedures necessary to implement and
36 administer the activities specified in this section related to the
37 program.

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

39 (a) Beginning July 1, 2025, and biennially thereafter, perform an
40 actuarial audit and valuation of the long-term services and supports

1 trust fund. Additional or more frequent actuarial audits and
2 valuations may be performed at the request of the council;

3 (b) Make recommendations to the council and the legislature on
4 actions necessary to maintain trust solvency. The recommendations
5 must include options to redesign or reduce benefit units, approved
6 services, or both, to prevent or eliminate any unfunded actuarially
7 accrued liability in the trust or to maintain solvency; and

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

11 (6) By October 1, 2021, the employment security department and
12 the department of social and health services shall jointly conduct
13 outreach to provide employers with educational materials to ensure
14 employees are aware of the program and that the premium assessments
15 will begin on July 1, 2023. In conducting the outreach, the
16 employment security department and the department of social and
17 health services shall provide on a public website information that
18 explains the program and premium assessment in an easy to understand
19 format. Outreach information must be available in English and other
20 primary languages as defined in RCW 74.04.025.

21 **Sec. 5.** RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are
22 each reenacted and amended to read as follows:

23 (1) Except as provided in subsection (2) of this section, the
24 employment security department shall deem a person to be a qualified
25 individual as provided in this chapter if the person has paid the
26 long-term services and supports premiums required by RCW 50B.04.080
27 for the equivalent of either:

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

30 (b) Three years within the last six years from the date of
31 application for benefits.

32 (2) A person born before January 1, 1968, who has not met the
33 duration requirements under subsection (1)(a) of this section may
34 become a qualified individual with fewer than the number of years
35 identified in subsection (1)(a) of this section if the person has
36 paid the long-term services and supports premiums required by RCW
37 50B.04.080 for at least one year. A person becoming a qualified
38 individual pursuant to this subsection (2) may receive one-tenth of
39 the maximum number of benefit units available under RCW

1 50B.04.060(3)(b) for each year of premium payments. In accordance
2 with RCW 50B.04.060, benefits for eligible beneficiaries in
3 Washington will not be available until July 1, 2026, and benefits for
4 out-of-state participants who become eligible beneficiaries will not
5 be available until July 1, 2030, and nothing in this section requires
6 the department of social and health services to accept applications
7 for determining an individual's status as an eligible beneficiary
8 prior to July 1, 2026. Nothing in this subsection (2) prohibits a
9 person born before January 1, 1968, who meets the conditions of
10 subsection (1)(b) of this section from receiving the maximum number
11 of benefit units available under RCW 50B.04.060(3)(b).

12 (3) When deeming a person to be a qualified individual, the
13 employment security department shall require that the person have
14 worked at least (~~five hundred~~) 500 hours during each of the ten
15 years in subsection (1)(a) of this section, each of the three years
16 in subsection (1)(b) of this section, or each of the years identified
17 in subsection (2) of this section.

18 (4) An exempt employee may never be deemed to be a qualified
19 individual, unless the employee's exemption was discontinued under
20 RCW 50B.04.055.

21 **Sec. 6.** RCW 50B.04.060 and 2022 c 1 s 4 are each amended to read
22 as follows:

23 (1) Beginning July 1, 2026, approved services must be available
24 and benefits payable to a registered long-term services and supports
25 provider on behalf of an eligible beneficiary under this section.

26 (2) (~~Beginning~~) (a)(i) Except for qualified individuals
27 residing outside of Washington as provided in (a)(ii) of this
28 subsection, beginning July 1, 2026, a qualified individual may become
29 an eligible beneficiary by filing an application with the department
30 of social and health services and undergoing an eligibility
31 determination which includes an evaluation that the individual
32 requires assistance with at least three activities of daily living.

33 (ii) For a qualified individual residing outside of Washington,
34 beginning January 1, 2030, the out-of-state qualified individual may
35 become an eligible beneficiary by filing an application with the
36 department of social and health services and undergoing an
37 eligibility determination. The eligibility determination must include
38 an evaluation that the individual either (A) is unable to perform,
39 without substantial assistance from another individual, at least two

1 of the following activities of daily living for a period of at least
2 90 days due to a loss of functional capacity: Eating, toileting,
3 transferring, bathing, dressing, or continence, or (B) requires
4 substantial supervision to protect such individual from threats to
5 health and safety due to severe cognitive impairments.

6 (b) The department of social and health services must engage
7 sufficient qualified assessor capacity, including via contract, so
8 that the determination may be made within 45 days from receipt of a
9 request by a beneficiary to use a benefit.

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

13 (b) Except as limited in RCW 50B.04.050(2), an eligible
14 beneficiary may not receive more than the dollar equivalent of 365
15 benefit units over the course of the eligible beneficiary's lifetime.

16 (i) If the department of social and health services reimburses a
17 long-term services and supports provider for approved services
18 provided to an eligible beneficiary and the payment is less than the
19 benefit unit, only the portion of the benefit unit that is used shall
20 be taken into consideration when calculating the person's remaining
21 lifetime limit on receipt of benefits.

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

25 **Sec. 7.** RCW 50B.04.070 and 2019 c 363 s 8 are each amended to
26 read as follows:

27 (1) Benefits provided under this chapter shall be paid
28 periodically and promptly to ~~((registered))~~ long-term services and
29 supports providers ~~((-~~

30 ~~-2-))~~ who provide approved services to:

31 (a) Eligible beneficiaries in Washington if the long-term
32 services and supports provider is registered with the department of
33 social and health services; and

34 (b) Eligible beneficiaries outside Washington if the long-term
35 services and supports providers meet minimum standards established by
36 the department.

37 (2) Qualified family members may be paid for approved personal
38 care services in the same way as individual providers, through a
39 licensed home care agency, or through a third option if recommended

1 by the commission and adopted by the department of social and health
2 services.

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

5 (1) The long-term services and supports trust account is created
6 in the custody of the state treasurer. All receipts from employers
7 under RCW 50B.04.080 and from out-of-state participants under section
8 2 of this act must be deposited in the account. Expenditures from the
9 account may be used for the administrative activities of the
10 department of social and health services, the health care authority,
11 and the employment security department. Benefits associated with the
12 program must be disbursed from the account by the department of
13 social and health services. Only the secretary of the department of
14 social and health services or the secretary's designee may authorize
15 disbursements from the account. The account is subject to the
16 allotment procedures under chapter 43.88 RCW. An appropriation is
17 required for administrative expenses, but not for benefit payments.
18 The account must provide reimbursement of any amounts from other
19 sources that may have been used for the initial establishment of the
20 program.

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

26 (3) The moneys deposited in the account must remain in the
27 account until expended in accordance with the requirements of this
28 chapter. If moneys are appropriated for any purpose other than
29 supporting the long-term services and supports program, the
30 legislature shall notify each qualified individual by mail that the
31 person's premiums have been appropriated for an alternate use,
32 describe the alternate use, and state its plan for restoring the
33 funds so that premiums are not increased and benefits are not
34 reduced.

35 NEW SECTION. **Sec. 9.** A new section is added to chapter 50B.04
36 RCW to read as follows:

1 (1) In carrying out this chapter, discrimination against any
2 person based upon race, gender, age, or preexisting condition is
3 prohibited.

4 (2) The department of social and health services shall adopt
5 rules to prohibit discrimination pursuant to this section, which
6 shall govern all state agencies and all persons and entities involved
7 in implementing this chapter, including but not limited to long-term
8 services and supports providers.

9 (3) The prohibition against discrimination adopted in this
10 section shall equally protect in state participants and out-of-state
11 participants under section 2 of this act.

12 (4) The prohibition against discrimination will ensure that the
13 program is implemented uniformly and that all program participants
14 are treated fairly and protected from discrimination regardless of
15 the laws in their home state.

16 (5) The prohibitions provided in this section are additional and
17 supplemental to existing protections against discrimination under
18 federal, state, and local laws, including chapter 49.60 RCW, as may
19 be applicable.

20 NEW SECTION. **Sec. 10.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2025.

Passed by the House February 12, 2024.

Passed by the Senate February 28, 2024.

Approved by the Governor March 15, 2024.

Filed in Office of Secretary of State March 15, 2024.

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