LTSS Trust Commission Recommendation on Portability

Background

Per RCW 50B.04.010(6) "Eligible beneficiary" means a qualified individual who is age eighteen or older, **residing in the state of Washington**, has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as established in this chapter, and has not exhausted the lifetime limit of benefit units.

Some workers leave the state either during their working years or after retirement. Some may have paid in less than 10 years and left before they could permanently qualify, others will have qualified and will be unable to claim benefits when they need LTC. Per the current statute, only people who reside in Washington can utilize WA Cares Fund benefits.

According to the 2022 operating budget bill ESSB 5693, Section 204 (58) The long-term services and supports trust commission established in RCW 50B.04.030 must submit the results of the following activities, including any legislative recommendations, to the governor and appropriate legislative committees no later than January 1, 2023:

(a) The commission shall develop options for allowing persons who become qualified individuals and subsequently move outside of Washington to access benefits in another state if they meet the minimum assistance requirements to become an eligible beneficiary. The commission must include consideration of options for conducting eligibility determinations for qualified individuals who subsequently move outside of Washington, alternative forms of benefits for out-of-state eligible beneficiaries, methods of cross-state coordination on long-term services and supports providers, and timing implications of extending benefits to out-of-state eligible beneficiaries with respect to short-term program implementation and long-term collaboration with other states establishing similar programs.

According to work done to analyze portability in 2021, the potential cost to provide fully portable benefits nationwide is + .36% (or 36 cents for every $100 earned); and the potential cost to provide 50% of benefits nationwide is +.18% (or .18 cents for every $100 earned).

<u>Workgroup Recommendations</u>

1. <u>Options to address the cost of expanding benefits to people who leave the state</u>

   Background: Under current statute, those who vest and leave the state cannot claim benefits outside of Washington. Making benefits portable would add cost to the program. Much of the cost of portability would likely come from younger workers who tend to be more mobile during their careers. Adding them into the cohort of people who can receive benefits after ten years of paying in would drive up the cost for all Washingtonians up to .36 basis points. The workgroup examined a number of ways that cost could be minimized and actuarial analysis is still underway. The feasibility and cost effectiveness of all other areas the workgroup has considered will depend on which design is adopted. The volume of people who can receive benefits out of state and the amount of benefits they can receive significantly impact all other areas of this recommendation.

   - **Option 1**: Allow anyone with at least one year of qualifying coverage who leaves the state to elect portable benefits coverage by choosing to continue contributing premiums to WA Cares until the Normal Retirement Age under Social Security (currently age 67 for those born in 1960 or later)
     - **Pros:** Requiring ongoing payment of premiums significantly reduces cost of portability; ongoing payments provides data to project the number of people who may use benefits in each state; gives everyone the opportunity to have permanent access to full benefits; similar to private LTCI, requires continuous premium payment to maintain coverage
     - **Cons:** Not everyone will have permanent access to benefits – only those why buy in

   - **Option 2**: Provide significantly reduced benefits to anyone who has paid in 10 years and then leaves the state. The workgroup has requested modeling on this option and will meet again in October once that modeling is available. The workgroup will report out again on options to address cost of portability at November Commission meeting

- **Pros**: Everyone who pays in 10 years gets something
- **Cons**: Is likely to cost significantly more than Option 1 even if the pro-ration formula is significantly more modest than that for near-retirees; may be hard to communicate to the public that the program has two different pro-ration formulas, one of which is far more generous; would result in high administrative costs – large numbers of people with very low benefits, all of whom need assessments and benefits management dispersed around country; unclear how much utility a benefit of e.g. $1,000 or $3,000 has for people planning for their LTC needs

2. Timing implications of extending benefits to out-of-state eligible beneficiaries with respect to short-term program implementation and long-term collaboration with other states establishing similar programs

   Background: Five options were explored in the LTSS Trust Commission's 2021 Benefit Eligibility Workgroup to address the residency requirement for eligibility. No options were brought forward as viable at that time. Washington now has an additional eighteen months to implement benefits. Making Washington's benefit available nationwide before it's made available to Washingtonians could pose risk to WA state staff's ability to implement the program successfully in-state. Other states are exploring similar programs, which if implemented, could increase the feasibility of a multi-state benefit in the future. **The workgroup recommends Option 2, which would not undermine the ability of staff to implement the program for in-state residents.**

   - **Option 1:** WCF develops system to facilitate out-of-state eligible beneficiaries claiming WCF benefits simultaneous with in-state eligible beneficiaries starting in July 2026
     i. **Pros:** Out-of-state eligible beneficiaries have timely access to their earned WCF benefits
     ii. **Cons:** Rushed development of new systems and processes to pay benefits nationwide would compromise the quality of those systems and processes and also would risk undermining ability of staff to implement benefits for Washingtonians in-state by July 2026

- **Option 2:** WCF develops system to facilitate out-of-state eligible beneficiaries claiming WCF benefits starting in 2030
    i. **Pros:** Does not risk undermining in-state implementation by July 2026; gives sufficient time to develop reliable systems and processes that work well for beneficiaries and minimize risk of fraud
    ii. **Cons:** A small number of workers who have earned WA Cares benefits will need them out-of-state prior to 2030 and have to wait until 2030 to access their benefits.

3. <u>Options for conducting eligibility determinations for qualified individuals who subsequently move outside of Washington</u>

Background: There is no national functional eligibility standard for home and community based long-term services and supports. The WA Cares Fund eligibility standard will require specific assessor training to support eligibility determination out of state. Due to the administrative complexity and cost required, the option to coordinate with each state's Medicaid LTSS agency was rejected and the following options remain. **The workgroup recommends Option 3, which allows DSHS flexibility to determine the most cost-effective and feasible approach once an overarching policy design has been developed.**

- **Option 1:** Use WA Cares assessor capacity to conduct all out-of-state assessments virtually. Use a model that allows staff to gather medical records and do virtual or telephonic interviews to determine ADL need.
    i. **Pros:** WCF can absorb the workload based on the small number of individuals nationwide; consistent standards would be applied; individual would access WCF more quickly
    ii. **Cons:** Not being able to visibly determine an individual's needs/environment; potential for providers in other states to claim WA Cares Fund and Medicaid in their state simultaneously (may need procedures to mitigate or prevent fraud risk with each state)

- **Option 2:** Contract with a private company who would manage assessments nationwide. Existing firms have contracted with private long-term care insurance policies to provide telephonic, virtual and in-home assessments. Intensity of assessment depends on whether care is already in place, in which setting, and consistency in the story.

   i. **Pros:** Leveraging existing networks (similar to private industry plans); base level of training already in place; may allow for in-person assessments
   ii. **Cons:** Cost; need additional training with WCF eligibility; contract management/monitoring; volume of assessments is likely to be very low in most states, making training investment inefficient and driving accuracy concerns; new processes to accept assessment data from out-of-state workers required; potential for providers in other states to claim WA Cares Fund and Medicaid in their state simultaneously (would need procedures to mitigate or prevent fraud risk with each state)

- **Option 3**: Allow DSHS to determine the method if and when portability has been enacted. DSHS could use WA Cares Fund staff to conduct virtual assessments or could contract with a private vendor to conduct assessments nationwide. The cost of these options will depend on a number of factors that could change between now and implementation of portable benefits. If portability is enacted, DSHS will then vet these options to determine most cost-effective approach at that time.

4. Alternative forms of benefits for out-of-state eligible beneficiaries and methods of cross-state coordination on LTSS providers

Background: Current law requires payments be made only to approved providers who register with DSHS. There is no national standard for provider eligibility, which poses challenges for managing a provider network nationwide. Each state has its own laws and rules that define long-term care provider training, certification, and background check requirements. Alternative forms of benefits that do not require paying approved providers may assist in paying benefits without the administrative complexity of managing an out-of-state provider network. Due to the administrative complexity and cost required, the option to coordinate with each state's Medicaid LTSS agency was rejected and the following options remain. **The workgroup recommends Option 3, which allows DSHS and HCA flexibility to determine the most cost-effective and feasible approach once an overarching policy design has been developed. The workgroup will revisit this topic once a policy design has been recommended. Options that allow reimbursing the beneficiary or paying cash would require statute change.**

- **Option 1:** Reimburse the beneficiary or provider based on submission of receipts or invoices for care using a contracted vendor.
    - **1A.** Restrict provider types to those licensed in the state where care is provided. A vendor would manage and process receipts and invoices, which would include license numbers from providers. Each state may have slightly different benefits depending on state licensing rules. For example, if in-home personal care does not require a license, it would not be reimbursed by WA Cares.
        - **Pros:** Ensures only long-term care services are being provided in other states; widens the pool of vendors that can do this work
        - **Cons:** Restricts access to unlicensed benefits like accessibility modifications in the home, home delivered meals that could have been received in WA State; frustration from beneficiaries whose claim is denied because they received services from an unlicensed provider; requires out-of-pocket payment for services; administrative complexity and cost to hire a vendor to manage out-of-state claims; time to develop this model
    - **1B.** Allow unlicensed providers to be credentialed by a vendor based on standards set by DSHS in each state at the point of request for reimbursement or prior to services being rendered upon request from the beneficiary. Claims for services provided by a provider who did not meet credentialing requirements would not be reimbursed. For example, a claim from a home modification provider that was not registered in that state as a contractor and in good standing would be denied.
        - **Pros:** Ensures only long-term care services are being provided in other states; provides consistency in WA Cares benefits from state to state

    - **Cons:** Frustration from beneficiaries who did not proactively seek credentialing, paid for services, then discovered the provider did not meet requirements to be credentialed; requires out-of-pocket payment for services; increased administrative complexity and costs to hire a vendor to manage claims and provider credentialing; time to develop this model

- **Option 2:** Pay the beneficiary a lump sum of their entire benefit once determined eligible for care
  - **Pros:** Simple to administer, especially if benefits will be pro-rated or reduced for people outside of Washington
  - **Cons:** No way to determine whether long-term care was provided; could impact eligibility for Medicaid LTSS if the sum increased their resources beyond the required threshold and they were unable to spend it in time, could create a precedent – paying in cash is not allowable in state; more vulnerable to fraud

- **Option 3:** Give DSHS and HCA flexibility to assess the most cost-effective option for paying benefits nationwide once a specific policy design has been enacted. Once a policy design has been decided, DSHS can do an RFI to do a cost-benefit analysis on paying cash vs. providing a long-term care reimbursement model. If benefits are pro-rated or reduced for people outside of Washington, it may not be cost effective to pay for a vendor to manage long-term care provider payments. Understanding the volume of people who will receive benefits is critical to understanding costs and feasibility.