

LTSS Trust Commission Recommendation on Recertification of WCF Exemptions based on Private Long-Term Care Insurance and Allowing Workers an Opportunity to Rescind their Exemption and Permanently Reenter WCF

Policy background: Approximately 474,600 people have been approved for an exemption based on purchasing private long-term care insurance. The window to purchase private LTC insurance in order to be exempt from WA Cares Fund has closed. Typically only 35,000 people purchase private long-term care insurance each year and the typical age people purchase private coverage is around age 60. The majority of people who opted out of WA Cares Fund were younger (in their 40s), and higher earners making over \$100,000 per year.

Several themes regarding WA Cares exemptions, based on purchasing private long-term care insurance (PLTCI), have emerged from interactions with stakeholders over the last year. Concerns shared by stakeholders include:

- 1) Applicants are required only to attest to having LTC insurance purchased prior to November 2021, to receive approval for a lifetime exemption from WA Cares participation,
- 2) Individuals may not be truthful on their application for exemption, and
- 3) Individuals can cancel or be unable to maintain their LTC insurance policy at any time after receiving approval for their exemption

Furthermore, due to legislative changes in 2022, exemptions will be made available to groups who did not previously qualify, including workers who live outside of Washington, military spouses, workers holding non-immigrant visas, and certain veterans with disabilities. Exemption applications for newly eligible groups will become available January 1, 2023. In addition, people near retirement who could not previously qualify for coverage now have a pathway to earn benefits.

Commission Recommendation Requirement: 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:

- (58)(b) The commission shall develop options for requiring the ongoing verification of the maintenance of long-term care insurance coverage by persons who have received an exemption under RCW 50B.04.085,

including consideration of procedures that minimize administrative burden, minimize negative impact on long-term services and supports trust account solvency, and incentivize maintenance of coverage

- (58)(c) The commission shall develop options for providing workers who have received exemptions based on having private long-term care insurance pursuant to RCW 50B.04.085 an opportunity to rescind their exemption and permanently reenter the long-term services and supports trust program.

The following groups who purchased private LTCL and were approved for a lifetime exemption by ESD could be impacted

	Scenario & impact	Require periodic recertification of PLTCI to remain exempt	Allow worker to rescind their lifetime exemption
1	Individuals who dropped their private LTCL plan	X	
2	Individuals who falsely attested, but did not have a PLTCI plan	X	
3	Individuals who thought they had a PLTCI plan that met the LTC standards but did not	X	
4	Individuals who keep their PLTCI, but choose not to recertify so they can also participate in WA Cares	X**	X**
5	Individuals who are “near retirement” – born before 1968 and can now earn benefits	X**	X**
6	Individuals who would qualify under a new exemption category	X**	X**

**If these options have an unlimited timeframe to take action, solvency of the fund could be impacted because people could choose to wait until they are within ten years of retirement to enter WA Cares.

I. Require periodic recertification of PLTCI to remain exempt¹

The LTSS Trust Commission Workgroup considered several options for recertification to meet the policy goals of minimizing administrative burden, minimizing negative impact on long-term services and supports trust account solvency, and incentivizing maintenance of coverage. The workgroup agreed on the following option:

Recertification Policy Option 1: Require all individuals with approved exemptions to provide proof that they had purchased a qualifying LTC policy prior to 11/2021 and that they have maintained their policy through the present day. To maintain an exemption, recertification is required to occur at an interval of no more frequently than annually and no less frequently than every three years beginning in December 2024. Recertification is no longer required or possible after ten years.

Pros:

- Provides reasonable assurance that individuals intend to maintain PLTCI plan
- Adds consumer protection for individuals who thought their PLTCI was adequate but upon review, does not meet standards
- Limits the burden to recertify to ten years for both consumers and ESD, which also limits administrative costs
- Limits adverse selection associated with people who are younger recertifying until they are later in their career, avoiding premiums and only paying in the last ten years of their career

● **Cons:**

- Some administrative complexity and cost
- Individuals may not be able to contribute long enough to qualify for benefits
- Allowing people to re-enroll voluntarily may result in adverse selection

The following policy considerations are also included for recertification as recommended by ESD

¹ Additional recertification policy considerations recommended by ESD are included at the end of this document

- *Require individuals to provide a copy of their LTC policy at the time of re-certification. ESD staff would require training to verify whether PLTCI plans meet statutory requirements which are administered by the Office of the Insurance Commissioner*
- *Further clarify established criteria for what a private LTC insurance policy must include to qualify the individual for PLTCI exemption.*
- *Explicitly grant ESD authority to withdraw approval of a PLTCI exemption if an individual fails to re-attest or provide adequate proof of LTC insurance when requested. The withdrawal of an exemption approval should require an individual to participate in the program as required for any other employee in Washington.*
- *Explicitly grant ESD authority to disclose exemption status to an individual's employer.*
- *Any ESD processes used for new exemptions based on circumstance could be leveraged for recertification of PLTCI*

II. Allow worker to rescind their lifetime exemption

The LTSS Trust Commission workgroup considered several options to provide people the opportunity to rescind their exemption and permanently reenter the long-term services and supports trust program. The workgroup agreed on the following option:

Allowing Workers to Rescind Exemption Policy Option 1: Give everyone one-time limited opportunity to rejoin WCF that expires in 2028, five years after the start of premium collection.

- **Pros:**
 - Allows people to proactively identify themselves as people who want to re-enter the program instead of leaving it up to a PLTCI recertification process;
 - Could reduce the amount of people who need participate in a PLTCI recertification process and therefore reduce the administrative complexity and cost of recertification
- **Cons:**
 - Allows people to enter the program without paying in for the first 5 years, which could drive up premiums required to fund the program
 - Adverse selection
 - New process adds administrative costs