



Benjamin Veghte, LTSS Trust Commission Director  
Members of the LTSS Trust Commission

November 9, 2022

Dear Director Veghte and LTSS Trust Commission Members,

The American Council of Life Insurers (ACLI)<sup>i</sup> appreciates the enormous amount of work that has gone into the Commission's workgroup recommendations for improvements to the WA Cares Program. We believe that by adopting key recommendations, the Commission furthers its mission to ensure the Program's benefit adequacy, solvency, and sustainability. We thank the Commission for considering the ACLI's previous feedback and suggestions. We hope that the feedback contained in this letter is helpful. Our letter focuses primarily on the recertification report but contains a few thoughts on the portability and benefit eligibility reports as well.

[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](#)

### **Proof of Private LTC Coverage and Recertification Process**

The report specifies that the onus is on individuals to provide proof of private long-term care (LTC) insurance coverage and recertify their exemptions. ACLI supports this approach. An individual is best suited to indicate whether he or she seeks recertification of an exemption or wishes to join the WA Cares program. In addition, if needed, individuals can provide up-to-date contact and employment information during the recertification process.

Incorporating ongoing exemption recertification into the WA Cares program is vital to ensuring LTC insurance coverage for Washingtonians. As the report states, currently, individuals can cancel or fail to maintain their private LTC insurance policy at any time after receiving a permanent exemption from the WA Cares program. ACLI commends the report's recommendation that individuals regularly recertify their exemptions.

We suggest requiring individuals to self-attest to their ongoing private coverage, similar to the initial exemption application process, every two years. The Employment Security Department (ESD) could then audit a select number of individuals. The audit process would require audited individuals to provide proof of current LTC insurance coverage. A variety of private policies qualify as LTC under RCW 48.83.020 and could qualify an individual for an exemption. Scrutinizing everyone's varying policy provisions, which can be dozens of pages long, is not practical. A recertification audit minimizes the administrative burden on the ESD and Washingtonians.

While the report recommends requiring individuals to provide a copy of their LTC policy at the time of recertification, a policy by itself does not prove that the policy remains in force and was not terminated or allowed to lapse. For purposes of the audit, we recommend using proof of

current LTC coverage, such as relevant policy pages, in addition to a recent statement or premium payment. The audit process should leverage existing communications that prove a LTC policy is in effect. Relying on these existing documents will save time, money, and effort.

ACLI encourages the Commission to engage with industry on recertification options that align with its charge to explore solutions that minimize administrative burden, curtail any negative impact on LTSS trust account solvency, and incentivize maintenance of coverage.

### **Clarify Criteria for Private LTC Insurance Exemption**

Another consideration in the report is whether the Commission should further clarify established criteria for what a private LTC insurance policy must include to qualify an individual for an exemption. Respectfully, ACLI believes this is unnecessary. The law is clear on what qualifies for the exemption, referencing RCW 48.83.020, a well-established insurance statute, that serves as the framework for filing, reviewing, and approving LTC insurance products. Veering away from the current criteria for LTC insurance, set forth in Washington's law, would create inconsistency and sow confusion. We urge the Commission to reconsider or reframe this suggestion.

### **ESD Authority**

The ESD must have the authority to withdraw approval of an exemption if an individual fails to self-attest or provide adequate proof of coverage when audited. ACLI agrees that the withdrawal of an exemption approval should require an individual to participate in the WA Cares program. Finally, subject to HIPAA requirements, we support granting the ESD authority to disclose exemption status to an individual's employer. Adequate ESD authority is necessary for successful WA Cares program management.

### **[LTSS Trust Commission Recommendation on Portability](#)**

The ACLI recognizes the prudence of the workgroup's recommendation to wait to assess portable benefit options until after settling on a specific policy design. As the Commission weighs the various options in the future, it will be important to keep in mind the interplay between portable WA Cares benefits and supplemental private LTC insurance policies. A few notes:

1. Portable WA Cares benefits would harmonize with portable supplemental private LTC products and increase their value to a mobile society.
2. The alternative "reduced benefits after paying into the program for ten years and then leaving the state" model would add complexity to the development of supplemental LTC insurance products.

### **[LTSS Trust Commission Recommendation on Eligible Beneficiary](#)**

The ACLI supports Option 3 in the report that recommends encouraging individuals who indicate they have private LTC insurance when applying for WA Cares benefits to check their private policy's benefit trigger and covered care settings so that they can make choices that promote continuity of care between both types of coverage.

Generally, public LTSS programs should provide for robust continuing consumer education on:

1. potential LTSS costs,
2. the nature of the public LTSS program benefit, including any limitations,
3. the likelihood of needing LTSS,
4. the overall landscape of LTSS coverage options, including Medicare, Medicaid, and private LTC insurance solutions,
5. the interaction and coordination between public LTSS benefits and private LTC insurance solutions to meet overall LTSS needs, and
6. how and where to access various LTSS financing solutions.

## Conclusion

Thank you again for considering our feedback. As always, we are happy to answer any questions. We encourage the LTSS Trust Commission to further involve private industry representatives in formulating solutions to Washington Cares program issues. We recognize and wish to support the Commission's tireless work to give Washingtonians the peace of mind and financial security LTC insurance coverage provides.

Sincerely,

Chanda Brady, Associate Director

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<sup>1</sup> The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 95 percent of industry assets in the United States.

**From:** [David Wolf](#)  
**To:** [DSHS WA CARES Fund](#)  
**Subject:** Recommendation on Recertification  
**Date:** Thursday, November 10, 2022 9:58:17 AM  
**Attachments:** [image001.png](#)

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External Email

WA Cares Fund Commission,

My name is David Wolf and I have been in Long-Term Care planning for 27 years. I am on the commission hearing call but have to leave at 10am. So, I am unable to participate in public comments.

Here is my comment and concern...

The **recommendation for recertification does not address those who obtained an opt-out via the purchase of Private Long-Term Care Coverage and replace that coverage** with more suitable coverage (without a lapse in LTC coverage). I am assuming the individual replacing for **more suitable coverage** maintains the original coverage until a replacement policy is secured.

Here is the concern. Many people purchased coverage last year while there were a limited number of options. Today they can likely purchase better coverage and may wish to upgrade their coverage. **The current recommendation seems to assume that only the original policy is eligible upon reconsideration. This ignores the residents right to replace coverage to better their coverage.**

THANK YOU for your consideration. I would appreciate acknowledgement of receipt of this email.

David

David Wolf

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