



Concise Explanatory Statement

RCW 34.05.325(6)

Long-Term Services and Supports Trust (WA Cares Fund)

**Implementation of portions of Engrossed
Substitute House Bill 5291 and determinations
December 2025**

REASONS FOR ADOPTING THE RULE

Rulemaking history:

- CR-101 filed: May 28, 2025, WSR # 25-12-047
- Stakeholder meeting: August 26, 2025
- CR-102 filed: September 17, 2025, WSR # 25-19-099
- Public rulemaking hearing: October 21, 2025
- CR-103 filed and rules adopted: December 1, 2025, WSR # 25-24-065
- Rules effective: January 1, 2026

This Concise Explanatory Statement is regarding adoption of the following rules:

Adopted WAC Sections and Title	Description
WAC 192-905-005 Eligibility requirements for an employee to receive a permanent exemption from the long-term services and supports trust program.	The adopted rule adds a reference to the option for employees to rescind their previously approved long-term care insurance exemption and participate in the program. Other changes to this section are administrative.
WAC 192-905-006 Eligibility requirements for an employee to receive a conditional exemption from the long-term services and supports trust program.	The adopted rule removes language related to an employee who holds a nonimmigrant visa for temporary workers because those individuals will be automatically exempt unless they choose to participate. The amendments also add language regarding a new voluntary conditional exemption type for active-duty service members in the U.S. Armed Forces who are concurrently engaged in off-duty civilian employment.
WAC 192-905-008 Automatic exemption for an employee who holds a nonimmigrant visa for temporary workers.	The adopted rule describes how nonimmigrant temporary work visa holders, as recognized by federal law, are automatically exempt from the

	<p>program unless they choose to participate in the program. The rule outlines requirements for the employee to notify their employer(s) if they would like to participate in the program. It also outlines the requirement that once the employee is a permanent resident or citizen, premiums must begin being assessed the quarter immediately following permanent status.</p>
<p>WAC 192-905-009 Rescission period for an employee who has received a voluntary long-term care insurance exemption.</p>	<p>The adopted rule outlines the dates the long-term care insurance exemption rescission is available and the process an employee must take to rescind their permanent exemption. The rule also requires the employer at the time of rescission to maintain a copy of the rescission letter the employee provides.</p>
<p>WAC 192-905-020 When is an ((exempt)) employee entitled to a refund of premiums?</p>	<p>The adopted rule adds language that requires a refund of premiums an employer may have collected from an employee who holds a nonimmigrant visa for temporary workers.</p>
<p>WAC 192-910-015 What are the employer's responsibilities for premium deductions?</p>	<p>The adopted rule adds the requirement for employers to not deduct premiums for an employee who holds a nonimmigrant visa for temporary workers, unless the employee participates in the program under WAC 192-905-008, and adds references to the requirement for employers <i>to</i> deduct premiums for an employee who no longer qualifies for a conditional exemption, becomes a permanent resident or citizen, or rescinds their long-term care insurance exemption.</p>
<p>WAC 192-920-005 Parties to collective bargaining agreements.</p>	<p>The adopted rule sunsets the collective bargaining non-participation provisions after December 31, 2025. This aligns with the Paid Family and Medical</p>

	Leave sunset provision that was effective after December 31, 2023
WAC 192-940-010 How will the department determine if someone is a qualified individual?	The adopted rule removes the break of five or more consecutive years from the 10-year qualifying pathway and clarify that benefit percentages and maximums are related to the maximum program benefit amount.
WAC 192-940-011 How is a qualified individual determination made for the pilot project?	The adopted rule outlines how qualified individual determinations will be made for the pilot project that selected individuals may participate in between January 1, 2026, and June 30, 2026.
WAC 192-950-005 What happens if there is a question regarding an individual's application?	The adopted rule outlines what actions the department will take if additional information is needed regarding applications for exemptions, qualified individuals, and out-of-state coverage.
WAC 192-950-010 What happens if an interested party does not respond to the department's request for information?	The adopted rule outlines the actions the department will take to make a determination when there is no response regarding a request for information.
WAC 192-950-015 How will determinations be made?	The adopted rule outlines the process the department will use to make determinations, consider information received, and give interested parties an opportunity to respond.

VARIANCE BETWEEN PROPOSED RULE AND FINAL RULE

WAC 192-940-011 was changed to refer to section 16, chapter 380, Laws of 2025 since the pilot project is temporary and was not codified in chapter 50B.04 RCW. WAC 192-950-005 was changed from referring to “out-of-state coverage applications” to “out-of-state participant applications” to match language in statute. Neither change is substantive.

SUMMARY OF COMMENTS TO PROPOSED RULES AND AGENCY RESPONSE

One written comment was received and is summarized below. No comments were received during the rulemaking hearing.

Comment	Agency Response
<p>From Scott Dilley, Public Affairs Director, Worker and Farmer Labor Association (WAFLA)</p> <p>Over the past couple of years, our members and their employees who come to the United States on nonimmigrant work visas have struggled with the issue of WA Cares premiums and exemptions. These workers have paid premiums into a program that they will most likely never benefit from. Even when voluntary exemptions were allowed, the opt-out process was inefficient due to statutory constraints. We are pleased and relieved that the Legislature, through ESSB 5291, has seen fit to grant an automatic WA Cares exemption to these visa holders, and we are glad to see the Department moving forward with rules that will provide a fair, equitable, and efficient remedy beginning in 2026.</p> <p>We have reviewed the text of the proposed new section of WAC 192-905-008 and believe it accurately captures the provisions of ESSB 5291 related to the automatic nonimmigrant visa exemption. We support this rulemaking language.</p> <p>We are thankful for the Department’s efforts to clarify this issue and adopt changes to benefit the lives and earnings of nonimmigrant visa holders.</p>	<p>Thank you for participating in the rulemaking process and providing your comments. Your comments will become part of the official rulemaking file.</p>