

**Long-Term Services and Supports Trust (WA Cares Fund)
Proposed new and amended rules related to program
administration, self-employed persons, out-of-state
participation, designated representatives, audit procedures,
and qualified individuals**

April 2026

Introduction

Title 50B RCW created a Long-Term Services and Supports Trust Program (WA Cares Fund) to provide long-term care benefits for eligible Washington residents. The program is funded through employee premium deductions of 0.58 percent (\$0.58 per \$100) of earnings. Premium deductions began on July 1, 2023. Self-employed persons and federally recognized tribes may elect WA Cares Fund participation, and individuals who establish a primary residence outside of Washington may elect to continue participating beginning July 1, 2026.

Beginning July 1, 2026, employees who reside in Washington who have paid into the program for the required number of years and worked the required number of reportable hours in each of those years will be able to access the benefit if needed. Beginning July 1, 2030, individuals who are out-of-state participants will be able to access the benefit if eligible.

To qualify for the full benefit amount, individuals must have worked and contributed to the WA Cares Fund under one of the following pathways:

- At least ten years;
- Three of the last six years from the date of application; or
- For individuals born prior to January 1, 1968, 1/10 of the benefit for each year of contributions.
- For each of the above pathways, individuals must have worked at least 500 reportable hours per year during each of the qualifying years.

Eligible individuals will have access to a lifetime benefit of up to \$36,500, to be adjusted at the rate of inflation, that can be used for a wide range of services and supports, including, but not limited to:

- Professional care at home or in licensed residential or nursing facilities

- Home safety evaluations
- Home-delivered meals
- Training, pay, and support for family members who provide care
- Transportation
- Adaptive equipment and technology (wheelchair ramps or medication reminder devices, for example)
- Memory care

The WA Cares Fund is administered by four state agencies, each with different program responsibilities. The Employment Security Department (department) is responsible for assessing and collecting premiums, processing exemption applications, determining qualified individual status, and processing elective coverage requests from self-employed individuals, federally recognized tribes, and individuals who relocate outside of Washington. The Department of Social and Health Services (DSHS) is responsible for determining eligible beneficiaries, administering benefits, and managing providers. The Health Care Authority (HCA) is responsible for processing payments, tracking benefit usage, and coordinating benefits. The Office of the State Actuary is responsible for performing actuarial audits on the trust fund.

The proposed rules implement portions of the program regarding self-employed election of coverage, out-of-state participation, designated representatives, audit procedures, and qualified individuals. An additional proposed rule provides an index of where to find rules for the portions of the program administered by DSHS and HCA.

These proposed rules were developed by the department and were filed in accordance with chapter 34.05 RCW. The department completed this analysis in accordance with RCW 34.05.328(1).

Describe the proposed rules, including a brief history of the issue, and explain why the proposed rules are needed.

NEW CHAPTER

Chapter 192-901 WAC

PROGRAM ADMINISTRATION

NEW SECTION

WAC 192-901-001 Purpose and scope. (1) Rules in Title 192 WAC related to the long-term services and supports trust program implement portions of the program administered by the employment security department as outlined in chapter 50B.04 RCW.

(2) Department of social and health services program rules can be found in chapter 388-116 WAC.

(3) Health care authority program rules can be found in chapter 182-600 WAC.

Explanation of proposed rule: The proposed rule provides an index of Employment Security Department rules, Department of Social and Health Services rules, and Health Care Authority rules. Department of Social and Health Services and Health Care Authority both have adopted similar rules that reference program responsibilities of other agencies.

AMENDATORY SECTION

WAC 192-915-005 Election of coverage for self-employed persons. (1) Self-employed persons as defined in RCW 50B.04.090 may elect coverage under Title 50B RCW.

(2) Coverage may only be elected beginning July 1, 2023, and before July 1, 2026, or within three years of becoming self-employed in Washington for the first time.

(3) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(4) Elective coverage begins on the first day of the quarter immediately following the notice of election.

(5) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed.

(6) The self-employed person must file a notice with the department if the individual retires from the workforce or is no longer self-employed.

(7) The department may cancel elective coverage if the self-employed person fails to make required payments or file reports. If canceled, participation in the program ends and the individual is not entitled to receive benefits.

Explanation of proposed rule: The proposed amendments clarify when self-employed individuals may elect coverage and include the addition of language regarding cancellation of coverage for failing to make required payments or file reports, as provided in RCW 50B.04.090.

NEW CHAPTER

Chapter 192-916 WAC

OUT-OF-STATE PARTICIPATION

NEW SECTION

WAC 192-916-005 How can an individual continue participating if they move out of Washington state? (1) An individual who has met requirements under RCW 50B.04.180 may elect to continue participation when establishing a primary residence outside of Washington.

(2) An individual who is retired from the work force must elect out-of-state participation to become an eligible beneficiary under RCW 50B.04.010.

(3) Out-of-state participation must be elected within one year of establishing a primary residence outside of Washington.

(4) An individual must submit an application to elect out-of-state participation. Applications will be available online or in another format approved by the department.

(5) An individual who has an active exemption may not elect out-of-state participation.

Explanation of proposed rule: The proposed rule outlines requirements under RCW 50B.04.180 for an individual to become an out-of-state participant. The rule requires individuals to apply for out-of-state participation.

NEW SECTION

WAC 192-916-010 What happens after an individual applies for out-of-state participation? (1) The department will determine the individual's eligibility based on requirements outlined in RCW 50B.04.180.

(2) Wages earned and hours worked when the individual had an approved exemption do not count toward meeting the requirements to elect out-of-state participation.

Explanation of proposed rule: The proposed rule outlines that the department will determine if the individual is eligible to be an out-of-state participant based on requirements in RCW 50B.04.180 and clarifies that any wages earned and hours worked when an individual had an approved exemption do not count toward meeting the requirements.

NEW SECTION

WAC 192-916-015 Reporting and premium payment requirements for out-of-state participants. (1) Wages earned and hours worked that are not already subject to premium withholding and reporting by an employer under RCW 50B.04.080 must be reported to the department annually.

(2) Under RCW 50B.04.180, if the out-of-state participant did not work or earn wages, acceptable documentation of no work or earnings must be reported to the department annually until the age of 67. Acceptable documentation may include additional information outlined in subsection (6) of this section.

(3) Premiums, if assessed, must be paid to the department.

(4) Hours reported and premiums paid count toward qualifying for the benefit as outlined in chapter 192-940 WAC.

(5) Reports and premium payments must be submitted in a format and manner approved by the department.

(6) The department may request additional information, including copies of tax returns, bank records, or any other documentation deemed necessary by the department to verify or determine compliance with RCW 50B.04.180.

Explanation of proposed rule: This proposed rule outlines that any wages earned and hours worked that are not already reported by an employer must be reported to the department annually. This rule clarifies that people who move out of state but continue to have some work localized in Washington that is already reported by their employer should not double report. The rule restates and clarifies additional requirements of RCW 50B.04.180.

NEW SECTION

WAC 192-916-020 Cancellation of coverage for out-of-state participants. (1) Out-of-state participants may not withdraw from program coverage.

(2) Under RCW 50B.04.180, the department must cancel coverage if an out-of-state participant fails to make required premium payments or submit required reports.

(3) If canceled, participation in the program ends and the individual is not entitled to receive benefits.

Explanation of proposed rule: The proposed rule references the requirement in RCW 50B.04.180 that out-of-state participants may not withdraw from program coverage and requires the department to cancel coverage for failure to make required payments or submit required reports. The rule also clarifies that individuals whose coverage is cancelled cannot participate in the program and are not entitled to receive benefits.

NEW SECTION

WAC 192-925-020 Can an individual designate a representative to act on their behalf?

(1) The department may authorize another individual to act on an individual's behalf for the purposes of applications, determinations, and appeals under the department's authority in chapter 50B.04 RCW if:

(a) An individual designates an authorized representative by submitting written documentation or other information as required by the department;

(b) A court-appointed legal guardian with authority to make decisions on an individual's behalf submits documentation as required by the department;

(c) An individual designated as an attorney-in-fact under a power of attorney submits documentation satisfactory to the department to act on an individual's behalf; or

(d) If an individual is unable to designate an authorized representative due to a serious health condition as defined in RCW 50A.05.010, another individual may represent that individual by submitting a complete and signed authorized representative designation form made available by the department, which must include:

(i) Documentation from the individual's health care provider as defined in WAC 192-500-090 certifying that the individual is incapable of completing the administrative requirements

required by the department and is unable to designate an authorized representative to act on their behalf; and

(ii) An affidavit or declaration authorized by chapter 5.50 RCW attesting to the responsibility to act in the individual's best interest.

(2) The department will terminate the authority given to the authorized representative:

(a) When the individual or authorized representative notifies the department verbally or in writing; or

(b) At the department's discretion.

Explanation of proposed rule: The proposed rule outlines the circumstances under which an individual may designate another individual to act on their behalf for the purposes of applications, determinations, and appeals under the department's authority. The rule aligns with the rule currently in place for the Paid Family and Medical Leave program.

AMENDATORY SECTION

WAC 192-930-005 Audit procedures. (1) The department may inspect and audit employer files and records as needed to ensure compliance with Title 50B RCW. Audits may take place at the discretion of the department.

(2) Employers must provide all requested information to the department within 10 business days or a time frame agreed to by the department.

(3) The department may inspect and audit self-employed and out-of-state participant elective coverage documentation at intervals determined by the department.

(4) If the department discovers violations for the time frame being audited, the department may expand the audit to include prior and subsequent ~~((quarters))~~ reporting periods, up to the most recently completed ~~((calendar quarter))~~ reporting period.

Explanation of proposed rule: The proposed amendments add that the department may inspect and audit self-employed and out-of-state participant elective coverage documentation at intervals determined by the department. The rule further clarifies language describing reporting periods for each group, which are either quarterly for employers or annually for out-of-state participants.

AMENDATORY SECTION

WAC 192-940-005 Earning years to become a qualified individual. (1) The department will determine years earned toward qualified individual status under RCW 50B.04.050 based on wages earned and hours worked in employment as reported under chapter 192-910 WAC ~~((or))~~, in covered self-employment under chapter 192-915 WAC, and as an out-of-state participant under chapter 192-916 WAC.

(2) Only hours worked in reportable employment ~~((or))~~, covered self-employment, and as an out-of-state participant will be considered when determining whether an individual has worked at least 500 hours each year.

(3) A year toward qualified individual status may be earned once an individual has accrued 500 hours in employment as reported under chapter 192-910 WAC ~~((or))~~, in covered self-employment as reported under chapter 192-915 WAC, and as an out-of-state participant under chapter 192-916 WAC.

(4) Wages and hours reported when an individual had an approved exemption do not count toward qualifying for the benefit.

Explanation of proposed rule: The proposed amendments add that out-of-state participants may earn years toward qualified individual status.

AMENDATORY SECTION

WAC 192-940-010 How will the department determine if someone is a qualified individual? (1) Qualified individual status under RCW 50B.04.050 is determined as follows:

(a) An individual who has earned 10 years toward becoming a qualified individual will be eligible for the full benefit amount;

(b) An individual who, from the date of application for benefits, has earned three of the last six years toward becoming a qualified individual will qualify for the full benefit amount; or

(c) An individual born before January 1, 1968, who does not qualify under (a) or (b) of this subsection will qualify for one-tenth of the maximum program benefit amount for each earned year toward becoming a qualified individual.

(2) An individual who continues to work in employment ~~((or in))~~, covered self-employment, or as an out-of-state participant after qualifying for subsection (1) (b) or (c) of this section, or both, may be eligible to earn additional years toward becoming a qualified individual.

(3) An individual may not exceed the maximum program benefit amount under RCW 50B.04.060.

(4) An individual who has an approved exemption cannot become a qualified individual.

Explanation of proposed rule: The proposed amendment to this rule adds that an out-of-state participant who continues to work may be eligible to earn additional years toward becoming a qualified individual if they previously qualified under a temporary or prorated pathway.

Is a Significant Analysis required for these rules?

The proposed rules do not meet the definition of significant legislative rules under RCW 34.05.328 and do not require a significant analysis. Each rule and the reason for the exemption is listed below:

	Proposed WAC Sections and Title	This proposed rule section is <u>exempt</u>. Provide RCW to support this exemption.
1.	WAC 192-901-001 Purpose and scope.	RCW 19.85.025(4) – The rule does not affect businesses and provides informational references to other Washington state agency rules for program administration.
2.	WAC 192-915-005 Election of coverage for self-employed persons.	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.090).
3.	WAC 192-916-005 How can an individual continue participating if they move out of Washington state?	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.180). RCW 19.85.025(4) – The rule does not affect businesses and only applies to individuals who would like to voluntarily continue participation in the program when moving out of Washington state.
4.	WAC 192-916-010 What happens after an individual applies for out-of-state participation?	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.180). RCW 19.85.025(4) – The rule does not affect businesses and only applies to individuals who would like to voluntarily continue participation in the program when moving out of Washington state.
5.	WAC 192-916-015 Reporting and premium payment requirements for out-of-state participation.	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.180). RCW 19.85.025(4) – The rule does not affect businesses and only applies to individuals who would like to voluntarily continue participation in the program when moving out of Washington state.
6.	WAC 192-916-020 Cancellation of coverage for out-of-state participants.	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.180). RCW 19.85.025(4) – The rule does not affect businesses and only applies to

		individuals who would like to voluntarily continue participation in the program when moving out of Washington state.
7.	WAC 192-925-020 Can an individual designate a representative to act on their behalf?	RCW 34.05.310(4)(b) – The rule is related to internal governmental operations that are not subject to violation by a nongovernment party. RCW 19.85-025(4) – The rule does not affect businesses and outlines how an individual may designate another individual to act on their behalf.
8.	WAC 192-930-005 Audit procedures.	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.020(4)(c)).
9.	WAC 192-940-005 Earning years to become a qualified individual.	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.050 and RCW 50B.04.180).
10.	WAC 192-940-010 How will the department determine if someone is a qualified individual?	RCW 34.05.310(4)(e) – The rule is dictated by statute (RCW 50B.04.050 and RCW 50B.04.180).

Clearly state in detail the general goals and specific objectives of the statute that the rules implement.

The goals and objectives of the WA Cares Fund are to provide long-term care services to individuals who demonstrate a need and have paid into the program through employment or election of participation for the required period of time. Qualified individuals will have access to a lifetime benefit of up to \$36,500 that will be adjusted annually for inflation.

According to RCW 50B.04.900, an alternative funding mechanism for long-term care access could save the Medicaid program eight hundred ninety-eight million dollars in the 2051-2053 biennium. The statute also states in part:

“The majority of people over sixty-five years of age will need long-term services and supports within their lifetimes. The senior population has doubled in Washington since 1980, to currently over one million, and will more than double again by 2040. Without access to insurance, seniors must rely on family care and spend their life savings down to poverty levels in order to access long-term care through Medicaid. Middle class families are at the greatest

risk because most have not saved enough to cover long-term care costs. When seniors reach the point of needing assistance with eating, dressing, and personal care, they must spend down to their last remaining two thousand dollars before they qualify for state assistance, leaving family members in jeopardy for their own future care needs. In Washington, more than eight hundred fifty thousand unpaid family caregivers provided care valued at eleven billion dollars in 2015. Furthermore, family caregivers who leave the workforce to provide unpaid long-term services and supports lose an average of three hundred thousand dollars in their own income and health and retirement benefits.”

The legislature passed Substitute House Bill 2467 in 2024, which allowed individuals who meet certain requirements to participate in the WA Cares Fund program if they establish a permanent residence outside of Washington. In 2025, the legislature made further changes to out-of-state participation requirements by passing Engrossed Substitute Senate Bill 5291. An individual who meets the requirements outlined in the law may elect to become an out-of-state participant beginning July 1, 2026. The proposed rules provide guidance to employers and the general public regarding requirements and administration of the program.

Explain how the department determined that the rules are needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rules.

The rules are needed to implement and clarify changes to Title 50B RCW that passed during the 2024 and 2025 legislative sessions. The proposed rules outline requirements for out-of-state participation, reference other state agency rules, update requirements for self-employed elective coverage, audits, qualified individual determinations, and add requirements for designated representatives. There are no alternatives to rulemaking that would provide this type of guidance.

Explain how the department determined that the probable benefits of the rules are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The proposed rules will benefit the public by providing clarity, guidance, and transparency for WA Cares Fund implementation and administration. Individuals who establish a permanent residence outside of Washington state and want to continue to participate in the program will

know the requirements. Self-employed individuals will benefit from additional guidance and individuals will know the requirements for designating a representative to act on their behalf.

Identify alternative versions of the rule that were considered and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated previously.

No alternative versions of the rules were considered.

Conflicts with Federal or State law

The proposed rules do not conflict with Federal or State law.

Performance impositions on private vs. public sectors

Since WA Cares premiums are required to be assessed for self-employed or out-of-state participants who elect coverage and all employees (except employees who have approved exemptions, federal government employees, nonimmigrant temporary work visa holders who have not chosen to participate in the program, or tribes and self-employed individuals who have not elected coverage), regardless of public or private sector employment status, there is no evidence to suggest that any proposed rule will have a measurably different impact between the two sectors.

Conflicts with Federal or State regulatory bodies

The rule does not conflict with any applicable Federal or State regulatory requirements.

Coordination with Federal, State, or local laws

The rule does not require coordination with federal, state, or local laws.