

September LTSS Trust Commission Meeting Minutes

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Meeting Date		09/13/2022		Time		1:00 pm – 4:00 pm	
Attendees							
✓	Representative Paul Harris	x	Representative Drew MacEwan	x	Representative Frank Chopp	x	Representative Nicole Macri
✓	Senator Curtis King	✓	Senator Judy Warnick	✓	Senator Karen Keiser	✓	Senator Steve Conway
✓	Secretary Jilma Meneses, Department of Social and Health Services (Chair)	✓	Cami Feek, Employment Security Department	✓	Taylor Linke, Health Care Authority	x	Peter Nazzal, Home Care Association Representative
✓	Madeleine Foutch, Representative of a union representing LTC workers	✓	Michael Tucker, Representative of an organization representing retired persons	✓	Lauri St. Ours, Representative of an association representing SNF/ALF providers	✓	John Ficker, Adult Family Homes Providers Representative
✓	Ruth Egger, Individual receiving LTSS #2, or designee	✓	Andrew Nicholas, Worker who is paying the premium (or will likely be paying)				
Guest Speakers							
✓	Ben Veghte, Department of Social and Health Services	✓	Andrea Meewes Sanchez, Department of Social and Health Services	✓	Dennis Elonka, Department of Social and Health Services	✓	Matt Buelow, Employment Security Department
✓	Luke Masselink, Office of State Actuary						

Topic	Minutes
<b>Welcome and Call to Order</b>	<ul style="list-style-type: none"> <li>Commission members in attendance indicated above.</li> <li>Secretary Meneses reviewed the meeting goals.</li> </ul>
<b>Consent Agenda</b>	<ul style="list-style-type: none"> <li>No objection made; items were adopted.</li> </ul>
<b>Workgroup on Portability</b>	<ul style="list-style-type: none"> <li>Andrea Meewes-Sanchez gave an update on the Portability Workgroup. The workgroup continues to study this topic and will report out again on their recommendations at the November Commission meeting.</li> <li>The workgroup considered the following issues:             <ul style="list-style-type: none"> <li>Options to reduce cost of expanding benefits to people who leave the state                 <ul style="list-style-type: none"> <li>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)</li> <li>Option 2: Provide significantly reduced benefits to anyone who has paid in 10 years and then leaves the state</li> <li>The workgroup has requested modeling on Option 2 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</li> <li>The feasibility and cost effectiveness of all other areas the workgroup has considered will depend on which design is adopted; 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</li> </ul> </li> <li>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                 <ul style="list-style-type: none"> <li>Background: Making Washington's benefit available nationwide at the same time 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.</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>▪ Draft Recommendation: WA Cares Fund develops systems to facilitate out-of-state eligible beneficiaries claiming WA Cares Fund benefits starting in 2030.</li> <li>○ Options for conducting eligibility determinations outside of Washington <ul style="list-style-type: none"> <li>▪ Background: DSHS may use WA Cares assessor capacity to conduct all out-of-state assessments virtually or contract with a private company who would manage assessments nationwide and could do in-person visits. In both options, a triage method that allows telephonic and virtual assessments to be done when appropriate could reduce cost.</li> <li>▪ Draft Recommendation: Allow DSHS to determine the method if and when portability has been enacted. 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.</li> </ul> </li> <li>○ Alternative forms of benefits for out-of-state eligible beneficiaries and methods of cross-state coordination on LTSS providers <ul style="list-style-type: none"> <li>▪ The workgroup continues to study this topic and will revisit recommendations once a policy design has been recommended.</li> </ul> </li> <li>• Madeleine Foutch provided context and comments on the Portability workgroup's work. <ul style="list-style-type: none"> <li>○ The workgroup spent many hours of meetings going through this very complex challenge. Getting portability right is important and designing a solution that allows for portability, a meaningful benefit, and an accessible benefit is incredibly complex. The group agreed upon waiting for implementation to start until 2030 is important for risk assessment and to let the public know that portability will happen. Appreciative of staff for all the research and work done.</li> </ul> </li> <li>• Ben Veghte – Thanked the workgroup for all of their hard work. Wanted to note that these are complex issues, but it is feasible. We have learned a lot from the long-term care insurance industry, but still have a lot of learning to do. The industry itself is going through a lot of change right now and want to make sure doing our due diligence to learn from people who have experience in doing that.</li> </ul> <p>Open for questions:</p> <ul style="list-style-type: none"> <li>• Senator Keiser – Wanting to know how Option 1 would work. Gave example of someone working and paying in for 20 years in WA and then retires and moves to Arizona. <ul style="list-style-type: none"> <li>○ Ben Veghte – For example, if they left the state at age 62, they would pay in for 5 more years, and then they would be eligible for their full benefit. If they left the state at age 67, they wouldn't pay in anymore and would be eligible for the full benefit.</li> <li>○ Senator Keiser – Clarified that they just have to meet the age limit no matter how many years they already paid in.</li> <li>○ Ben Veghte – Confirmed this is correct</li> </ul> </li> <li>• Senator King – Was going to ask the same question that Senator Keiser asked</li> <li>• Laura Cepoi - <b>Asking Portability workgroup to plan for reciprocal benefits if other states enact similar programs. ACTION ITEM</b></li> <li>• No action taken, revisiting topic at November Commission meeting.</li> </ul>
<p><b>Workgroup on Benefit Eligibility</b></p>	<ul style="list-style-type: none"> <li>• Andrea Meewes-Sanchez gave an update on Benefit Eligibility Workgroup and their draft recommendations.</li> <li>• Draft Recommendations to DSHS: <ul style="list-style-type: none"> <li>○ Topic 1: Developing eligibility standards that promote ease of access to earned benefits and early access to care, including support for unpaid family caregivers <ul style="list-style-type: none"> <li>▪ Develop triage model for face-to-face, virtual and telephonic assessments</li> <li>▪ Consider but do not require existing health records to expedite eligibility; also conduct an independent interview with the applicant or authorized representative to determine needs</li> <li>▪ Create eligibility standards that are easy to understand and can be used to quickly ramp up outside assessors to increase capacity when needed</li> </ul> </li> </ul> </li> </ul>

- Create eligibility definitions and develop processes that allow people who need personal care temporarily due to a major accident or surgery to become eligible as close to discharge from acute care as possible
    - Topic 2: Promoting seamless transitions to Medicaid
      - Use an eligibility standard similar to Medicaid LTSS and ensure people who could functionally qualify for Medicaid can first access WA Cares Fund
      - Provide access to information and continued planning through referrals when benefit balances are low
    - Topic 3: Preparing people who have a private long-term care insurance policy for transitions from WA Cares to their private policy
      - When an individual indicates they have private long-term care insurance upon application for WA Cares benefits, encourage them to check their policy's benefit trigger and covered care settings so that they are able to make choices that promote continuity of care
    - Topic 4: Developing ways to cover people with specialty care needs and cognitive impairment by considering instrumental activities of daily living and lack of natural supports
      - Consider a progressive diagnosis as an indicator that ADL will be impacted
      - Use screening tools for people who do not have a diagnosis
      - Evaluate instrumental activities of daily living including financial management, transportation, and medication management
      - Understand how natural supports aid in successfully completing activities of daily living and what would happen if that person was not there
    - Topic 5: Considering impacts to program solvency and administrative costs
      - Develop eligibility standards that mirror what was projected in the actuarial modeling, which aligns with Medicaid LTSS
      - Do not require reassessment for individuals with chronic long-term care needs; provide access to continued care planning through referrals when benefit balances are low
      - Automatically close benefits after six months only for people who qualified temporarily and have a prognosis of recovery; allow these individuals to reach out for reassessment and extended benefits if their need continues
      - Allow people to request to close their benefits at any time if they no longer need to access care; remaining benefit balance will remain for later use if care is needed again
  - Ruth Egger provided context around different scenarios where individuals could meet the eligibility criteria and use WA Cares Fund benefits.
    - Rueben has a planned hip replacement and lives alone. He will need care at home for up to six months post operation to support him in bathing, toileting, and shopping for groceries
    - Esther has a cognitive impairment that impacts her daily living; her family supports her by reminding her to take her medications, dress, and groom herself. They also keep her safe when she cooks in the kitchen.
    - Chen has broken her back in a mountain-biking accident and suffered a traumatic brain injury. She needs help getting out of bed, bathing, dressing, taking medications and cueing to do her home exercise program. Chen's spouse cannot afford to take much time off of work to assist.
- Open for questions
- Senator Keiser – Made an observation that in the scenarios given, 2 of the individuals appear to be younger and in need of temporary assistance and not long-term care. Has some confusion on their eligibility, as these individuals should be eligible for Paid Family and Medical Leave (PFML).
    - Andrea Meewes-Sanchez – PFML will provide replaced wages, but the WA Cares Fund will pay for services for people to come into the home.
    - Senator Keiser – If they are working and have health insurance and looking at a short-term benefit, thinks it might be a different scenario than having a long-term need. Clarified that they mean long-term as a year or more. Has a question regarding if they are working and then recover and go back to work, do they start rebuilding their eligibility for WA Cares or will be it depleted permanently?

- Andrea Meewes-Sanchez – There is not a definition in law that defines what long-term care means. The workgroup decided that instead of defining long-term care as a certain period of time, it would be around what types of activities of daily living does the person need help with. Going back to the scenarios, if Rueben is sufficient on his own and could do the bathing, toileting, shopping, etc. then he would not be eligible. If he was not sufficient on his own, then he could be eligible to be able to pay a home care aide to help him with that. A lot of those are not necessarily covered by health insurance.
  - Ruth Egger – Using Chen from the scenarios as an example, if Chen had been working for 6 years and paid in for 3, they would be eligible to get the care right away if they had an accident at that point.
  - Senator Keiser – Has concerns about expanding the definition of a long-term care benefit to accidents that are temporary in terms of recovery.
- Senator King – Has a follow up to Senator Keiser because brings up a good point, which comes first? In the first two examples, they apply, and they may be short term and thinks would be eligible for PFML. Do they go through that and then if it's longer, then they apply for long-term care or which do they use first? Not expecting an answer, but those are things that have to be looked at. Agrees with Senator Keiser that this isn't long-term care necessarily, but when do you make that determination. Other question goes back to the previous presentation and started off by saying there was three criteria. How many criteria are there in the private sector? Understanding was that it was two.
  - Andrea Meewes-Sanchez – That is true. However, the private industry considers a list of seven activities of daily living, where we're (WA Cares Fund) considering 10 to 11 activities of daily living similar to eligibility for Medicaid funded LTSS.
- Senator King – In the presentation, we talked about once you've used up your long-term care, you transition to Medicaid. Concern is that a person has retained all of their assets, which is supposed to be a benefit of this program. Now they've used up their long-term care and their only option is to look at Medicaid. How do they then have to look at using up their assets before they can access Medicaid? Thinks this creates a problem.
  - Ben Veghte – Agrees with Senator King. WA Cares Fund can't solve all the problems in the long-term care financing challenge. It's a huge challenge that WA Cares, Medicaid and private insurance can't solve alone or all three together. Some people exhaust WA Cares and find themselves having to pay out of pocket until they qualify for Medicaid. Hopefully for a good number of people, WA Cares will be all they will need or maybe family caregiving or savings can get them through their care journey without ever having to apply for Medicaid. There are going to be people who exhaust WA Cares and either go directly on Medicaid or have to spend down and then go on Medicaid.
  - Andrea Meewes-Sanchez – Wants to address question made in the beginning that was asked about Paid Family and Medical Leave (PFML) and WA Cares. The way they were thinking about this was if you're in the workforce and then you leave, you can use your PFML to replace your lost wages, but you may need additional money to pay a provider to come into your home and that's where WA Cares would pick up. They could be getting both benefits at the same time under the way the law is currently structured.
- Senator Conway – Wants to raise concern about cost. Under WA Cares there is a vesting requirement and thinks it might need some clarification. If WA Cares become a disability program and expand its purpose, how do we manage the cost? This program was designed as a long-term care benefit to assist people in retirement and we're expanding it's purpose for people who are disabled. Thinks this is a major expansion of the population for this program. Wondering if cost has been included in the analysis because seems like an expansion of the program.
  - Ben Veghte – Have been working with Milliman a lot on this work. We could take this issue back to them and make sure that however the eligibility trigger is fine-tuned that we do so in a way that does not increase program costs beyond what is already modeled.
  - Senator Conway – Keep in mind that Paid Family and Medical Leave has disability benefits attached to it as well. Wants to caution everyone as they think through these scenarios and if it's going to push the cost at the same time, they're trying to figure out a solution on portability. We're now saying that you can access this when you're 25, 30 or 35, and that worries me.

	<ul style="list-style-type: none"> <li>○ Ben Veghte – We will take this back and make sure what the workgroup is recommending is consistent with the previous cost estimates for the eligibility trigger. Offered for Chris Giese from Milliman to speak if this seems consistent with what they have modeled.</li> <li>○ Andrea Meewes-Sanchez – Wanted to mention that they didn't see this workgroup as an expansion, but as an interpretation of what the existing law allows. We see 38,000 working for 3 years and becoming eligible right away for their benefit. Those people are in the workforce then needing long-term care. We did a lot of work to compare activities of daily living that would be counting against what Medicaid counts because that's what Milliman had used to model the benefit trigger.</li> <li>○ Ben Veghte – We have 45 days to process applications but aiming to do it in 30 days. That delay would take care of people with a very short-term need since we cannot back date approvals, so that's one lever to deal with that issue. Invited Chris Giese to speak.</li> <li>○ Chris Giese – The 2020 study and what they are working on is using the Medicaid trigger definition as proxy to model costs. Their understanding of the law is there's no restriction to have this be just for individuals in retirement. We did model costs for individuals if they happen to need long-term care during their working years as well. When this definition is finalized, will need to take a look at how that compares to what they're modeling now.</li> <li>● Porsche Everson – Rachel Smith had a question <b>“Would the staff map how and when the various benefit programs would be utilized by the folks the committee has deemed as eligible?” Sounds like she is requesting staff work to look at potential benefits overlap between the different programs. ACTION ITEM</b> <ul style="list-style-type: none"> <li>○ Ben Veghte – We can do that.</li> </ul> </li> <li>● Taylor Linke – Heard Senator Keiser ask in the beginning around the depletion of the benefit and not sure if heard an answer yet. So, it is just a lifetime benefit, correct? <ul style="list-style-type: none"> <li>○ Ben Veghte – Correct</li> <li>○ Taylor Linke – In one of these scenarios, if they had a need later in life, there would not be another benefit amount available to them, correct?</li> <li>○ Ben Veghte – Correct</li> <li>○ Andrea Meewes Sanchez – For folks who end up having a temporary need, if they have six weeks of care, they might spend \$4,000 and then the rest of that balance would be available for them later.</li> </ul> </li> <li>● Secretary Meneses – Appreciates the discussion and agrees that the definition of long-term care isn't specific just to people who retire. Asked the Commission if they are ready to make a motion to accept the recommendations as long as the costs are consistent with the models seen or if the Commission prefers differently. <ul style="list-style-type: none"> <li>○ Senator Keiser – Wants to look at this more in depth before taking any action. Has concerns about using long-term care program for a temporary disability. Wants a better understanding on the intent of expanding this.</li> </ul> </li> <li>● Secretary Meneses - <b>Asked the workgroup to come back together and be precise about the definitions of what long term care is and whether they are consistent with the federal long term care definition. Asked to come back to the Commission in November for a vote. ACTION ITEM</b></li> <li>● No action taken, revisiting topic at November Commission meeting.</li> </ul>
<p><b>Workgroup on Recertification and Rescinding of Private LTC Insurance Exemption</b></p>	<ul style="list-style-type: none"> <li>● Andrea Meewes Sanchez gave an update on Recertification and Rescinding of Private LTC Insurance Exemption Workgroup and the policy background.</li> <li>● Andrew Nicholas provided an additional update and presented the workgroups draft recommendation.</li> <li>● Workgroup Recommendations: <ul style="list-style-type: none"> <li>○ Recertification <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ 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.</li> <li>▪ Recertification is no longer required or possible after ten years.</li> </ul> </li> </ul> </li> </ul>

- Rescind the lifetime exemption
  - Give all exempted individuals a one-time limited opportunity to rejoin WA Cares.
  - Expires in 2028 –five years after program premium payment begins.

Open for questions

- Senator King – Has some concerns about this approach. What about those that wanted to opt-out but couldn't get approved in time? If going to open it up, thinks should also give people the opportunity to purchase a policy and receive an exemption. Doesn't have a problem by saying if you buy a plan, you have to hold it for 3 years. Need to think about all the people that would have bought a long-term care plan if they could have. We saw companies that provided long-term care insurance that were very lucrative and provided much more benefits than WA Cares provided at a substantially lower rate.
- Senator Conway – In law, we have provided certain exemptions for certain people already. If those conditions change, are they then allowed to start paying into WA Cares. If they have moved out of state and then back in, they can join right?
  - Ben Veghte - Yes
- Senator Conway – Independent Contractors, they have a choice to make of whether they want to be a part of this plan or not. Are they included in your lifetime exemption option? If they exempted themselves out and at some point decide they want to participate, could they?
  - Ben Veghte - They could choose to pay in and then voluntarily tell us their income, and we'll have more on that later, then they would pay on that income. They don't pay in unless they become a W-2 at some point. If that does happen and they become an employee, then they would pay in as an employee. They don't have exemptions. They simply aren't required to pay in if they're self-employed unless they choose to opt in.
- Ben Veghte – Wanted to note that the private insurance industry is supportive of recertification
- Senator Conway – Knows that the insurance industry is in support but looking at the individuals who will be asked to provide this information and employers who will be required to administer this too. Payroll tax begins with the employers. Just wondering who is responsible for this?
  - Ben Veghte – Have a staff workgroup with ESD, OIC and DSHS that has been working on this issue. Haven't finalized that administrative planning, but it certainly is feasible, and it wouldn't be the employers who had to do that. It would be the carriers providing information to individuals.
- Senator Keiser – Thinks it's premature for individuals to rescind their lifetime exemption and would like to put that off for a couple of years. Wants to see how it plays out for those that bought policies.
- Senator King - I just would point out that the insurance companies are supportive of recertification because they don't have any choice. The individuals don't have any choice because they are stuck and can't opt out. Why would they want to go buy a private policy plan unless it was a supplemental to the other? If you're going to open it up to that, then open it up to where the private insurance companies can provide a long-term care plan without WA Cares, because can almost assure you that there will be some plans that will be cheaper overall. If you allow the public to have that access, and if needed put that they have to maintain that for ten years. I think there's other ways to address it.
- Ben Veghte - The policies that were cheaper than WA Cares were riders on very expensive life insurance products and often cost \$5,000 a year in premiums. You could get a rider that would allow you to use your life insurance benefits earlier. That is a product that's only accessible to the top 4% or 5% of earners. For someone who makes \$50,000 or \$60,000, they didn't have access to those inexpensive riders on \$5,000 a year life insurance policies. Just wanted to clarify that. The other point that's important in keep in mind is that recertification seems plausible that it would save us around three basis points, which could be really helpful in terms of financing portable benefits, which is another priority the Commission is considering.
- Porsche Everson – Asked if the group is ready to make a decision.
  - Senator Keiser – Agrees with recertification but thinks should hold off on the rescinding part and thinks that's premature.

	<ul style="list-style-type: none"> <li>○ Senator King – Not ready yet. Thinks this is a big change from law and what people responded to the law passed. If going to put options out there, need to put all of them out.</li> <li>○ Conway – Agrees with recertification but concerned about the idea of requiring the people who purchased a long-term care plan to report on the maintenance of the plan. Concerned about the administrative costs involved with that.</li> <li>○ Andrew Nicholas – Thinks these are significant improvements to the existing program. Rescinding exemptions is simply giving someone a choice to come back into the program more quickly than they might be under the recertification scenario.</li> </ul> <ul style="list-style-type: none"> <li>• No action taken, revisiting topic at November Commission meeting.</li> </ul>
<p><b>Adoption of Supplemental Private LTC Insurance (SPLTCI) Workgroup Report</b></p>	<ul style="list-style-type: none"> <li>• Ben Veghte reviewed the Supplemental Private LTC Insurance (SPLTCI) Workgroup Report.</li> <li>• Consensus was reached on set of recommendations on the structuring of an SPLTCI market: <ul style="list-style-type: none"> <li>○ Consumer protection <ul style="list-style-type: none"> <li>▪ Challenge: Ensuring consumers are aware of cost and benefit tradeoffs involved in choices around policy design features, particularly for a product which claims to supplement WA Cares benefits.</li> <li>▪ <b>Recommendations:</b> <ul style="list-style-type: none"> <li>• Develop consumer guide for people seeking SPLTCI coverage to help them make informed choices</li> <li>• Direct and fund Office of the Insurance Commissioner to expand Statewide Health Insurance Benefits Advisors (SHIBA) program to educate SPLTCI consumers (focus on middle-income market)</li> <li>• Create new section of statute in Title 48 to regulate policies that can be marketed and sold as supplemental to WA Cares <ul style="list-style-type: none"> <li>○ Should apply to SPLTCI products only and not disrupt current long-term care insurance market</li> <li>○ Should be sufficiently detailed and thorough to give consumers adequate information to protect them as they make decisions about purchasing a product that entails a substantial long-term financial commitment</li> <li>○ Everything known about SPLTCI policies should be disclosed up front, so consumers are not surprised later</li> </ul> </li> </ul> </li> </ul> </li> <li>○ Venue for filing policies <ul style="list-style-type: none"> <li>▪ Challenge: Issues regarding filing venue could create barrier to market entry by private LTC insurance carriers.</li> <li>▪ <b>Recommendation:</b> <ul style="list-style-type: none"> <li>• Washington State should endeavor to work through the logistical challenges for allowing “mix and match” to reach the agreed-upon goal of facilitating the development of a vibrant and competitive SPLTCI market</li> </ul> </li> </ul> </li> <li>○ Benefit trigger and elimination period <ul style="list-style-type: none"> <li>▪ Challenge: potential gaps in coverage related to benefit trigger and elimination period</li> <li>▪ <b>Recommendations:</b> <ul style="list-style-type: none"> <li>• SPLTCI deductible (monetary component of SPLTCI elimination period) should be equal to WA Cares full maximum lifetime benefit (starting at \$36,500) and automatically adjusted for inflation</li> <li>• WA Cares annual benefit inflation adjustment should be automatic, rather than an annual discretionary determination by the LTSS Trust Council</li> <li>• Carriers may not require that a client undergo a functional assessment or satisfy a benefit trigger in order to determine that a SPLTCI elimination period has begun or ended <ul style="list-style-type: none"> <li>○ Carrier may conduct a functional assessment and apply a benefit trigger for purposes of approving SPLTCI claim and authorizing SPLTCI benefits</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li> </ul>

- SPLTCI policies must accept exhaustion of maximum WA Cares benefits (currently \$36,500) by a SPLTCI policyholder –or for WA Cares beneficiaries with partial benefits, exhaustion of WA Cares benefits and utilization of paid care which together total proposed statutory SPLTCI deductible (currently \$36,500) –as sufficient to satisfy monetary component (deductible) of SPLTCI elimination period
- Transition issues for near-retiree cohorts
  - Challenge: potential gap in coverage due to gap between partial benefits and \$36,500 elimination period in SPLTCI policies
    - **Recommendations:** SPLTCI consumer guide and SHIBA counseling will work to educate near-retirees on cost and benefits of purchasing SPLTCI policies
      - Particular focus will be potential for a large deductible before the SPLTCI policy begins paying claims, its implications, and strategies for managing this
    - For SPLTCI policies marketed and sold to near-retirees, dollar component of elimination period (deductible) may be \$36,500 or less
- Continuity of covered care settings and providers
  - Challenge: Ensuring WA Cares beneficiaries can keep their existing care setting and/or provider (including family providers) as they transition to SPLTCI benefits
  - **Recommendations:**
    - Unless there is good-faith reason to believe a care setting or provider is not suited to meeting care and safety needs of a beneficiary, SPLTCI policies must allow continuity from WA Cares to SPLTCI coverage of care setting and provider, including family providers, so that SPLTCI “extends” WA Cares benefits without disrupting care
      - Carriers may audit for fraud, i.e., to determine whether care being billed is actually being provided
    - If a carrier determines a care setting or provider is not suited to meeting care and safety needs of a beneficiary the carrier may, effective 90 days after the transition from WA Cares to SPLTCI benefits, require a change in care setting or provider
      - Beneficiary will have right to appeal decision through third party independent review tracked by OIC
    - In their covered care settings and providers, SPLTCI policies must generally include coverage of family providers
- Coordination of benefits between WA Cares and SPLTCI policies
  - Challenge: Ensuring warm handoffs to minimize risk of discontinuities in care
  - **Recommendations:**
    - To support seamless transition from WA Cares to SPLTCI, a process of reciprocal administrative notification should be developed:
      - When a WA Cares Fund qualified individual applies for WA Cares benefits, WA Cares Fund asks whether individual has SPLTCI coverage and if yes, requests written consent from the applicant to share this information with SPLTCI carrier for purpose of triggering SPLTCI policy’s elimination period as well as any potential care coordination
      - When a Washingtonian purchases a SPLTCI policy, carrier requests written consent from policyholder to share this information directly with WA Cares Fund and if this consent is granted, shares that information with WA Cares Fund



	<ul style="list-style-type: none"> <li>• Only basic demographic information that would allow a person to be identified in each system would be shared; no health information or data on claims.</li> </ul> <p>Open for questions</p> <ul style="list-style-type: none"> <li>• Senator King - By voting yes to accept the report, are we just accepting the report? Not that they're voting yes on all of the recommendations, or they're just accepting the report and recognizing the amount of effort and work that's gone into this? <ul style="list-style-type: none"> <li>◦ Ben Veghte - This is a vote on the recommendations in the report.</li> </ul> </li> <li>• Senator Conway – Is there any statutory requirements in the law? <ul style="list-style-type: none"> <li>◦ Senator Keiser - Yes. We would have to develop statutory language for next session.</li> <li>◦ Senator Conway – Would it be Insurance Commissioner?</li> <li>◦ Senator Keiser – Yes, we'll have to work with the OIC.</li> <li>◦ Senator Conway - Was OIC on there? There are some of these recommendations that would require some statutory changes.</li> <li>◦ Senator Keiser - Correct. OIC was present as well as five different private insurance companies as they worked through the details on this. It's complicated, but this is what they were able to get to consensus on.</li> </ul> </li> <li>• Senator Keiser made a motion to adopt the SPLTCI report. Mike Tucker seconded the motion. A vote was taken and 11 voted aye, 3 voted nay. The motion was passed.</li> </ul>
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<p><b>Workgroup on Premium Reporting Accountability and Self-Employment Income Reporting</b></p>	<ul style="list-style-type: none"> <li>• Ben Veghte gave an update on Premium Reporting Accountability and Self-Employment Income Reporting Workgroup and their draft recommendations. April Amundson, from the Employment Security Department, available to answer questions.</li> <li>• <b>Recommendations:</b> <ul style="list-style-type: none"> <li>◦ On Topic 1: The Commission recommends the following statute change: <ul style="list-style-type: none"> <li>▪ Adopt for WA Cares Fund the premium accountability measures contained in the PFML statute, namely PFML authority 50A.45.</li> </ul> </li> <li>◦ On Topic 2: The Commission makes recommendations to the Employment Security Department (ESD) for the following rule amendments and policy changes: <ul style="list-style-type: none"> <li>▪ As ESD does for PFML, ESD will require quarterly wage reports from individuals who are self-employed and elect coverage for WA Cares. The department will assess premiums each quarter based on reported wage. It is recommended that at the end of each taxable year, elected covered participants verify income that was reported to appropriately apply accurate premium assessment and "true up" any misreported income and to amend WAC 192-915-015 to require this. The workgroup recommends accomplishing this is by aligning annual net profit, to which WA Cares premium is applied, with Line 2 of an individual's federal Schedule SE and requiring annual uploading of Schedule SE.</li> <li>▪ Communicate with those who elect coverage that they will be expected to report net income quarterly and true up annually on the basis of their Schedule SE.</li> </ul> </li> </ul> </li> </ul> <p>Open for questions</p> <ul style="list-style-type: none"> <li>• Senator Conway – Under topic two, is this going to be the same procedure that they use for Paid Family and Medical Leave <ul style="list-style-type: none"> <li>◦ Ben Veghte - It's the same procedure except that the additional element is reporting the Schedule SE and having it align with it. The reason for that is that a lot of self-employed people don't know what their net profit is and it's not an easy thing to calculate. There's a lot of data that suggests that self-employment income is chronically underreported whether that be intentionally or unintentionally. In Paid Leave if that happens, you get a lower benefit. If you report lower net profit, you also get a lower benefit. In WA Cares, you get the same benefit even if you reported very low income and as long as you met the minimum threshold of reporting each year, you still would get the full benefit. So that is the reason for the workgroup recommended asking for the additional step of trueing up to your Schedule SE. With the exception of the Schedule SE, the rest of this is consistent with what happens in Paid Leave.</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>○ Senator Conway – It is the only the self-employed that would be required to do this?</li> <li>○ April Amundson – That is the recommendation</li> <li>● Senator King – Takes exception that people who are self-employed may be incentivized to underreport their earnings. Implying that a bunch of them are crooks and wouldn't say that about another group. Really bothers him.</li> <li>● Ben Veghte – Wasn't questioning anyone's motives. Referring to data on reporting of self-employment income. Social Security Administration believes that it's significantly underreported, and people have studied that issue. Has no opinion on that, but just sharing that that is an issue.</li> <li>● Senator Conway made a motion to accept the workgroup recommendation. Madeleine Foutch seconded the motion. A vote was taken and 11 voted aye, 1 voted nay, 1 voted abstained. The motion was passed.</li> </ul>
<p><b>Milliman's 2022 WA Cares Fund Actuarial Study</b></p>	<ul style="list-style-type: none"> <li>● Luke Masselink provided an update on Milliman's 2022 Actuarial Study.</li> <li>● Overview: <ul style="list-style-type: none"> <li>○ Final Milliman report expected in late October <ul style="list-style-type: none"> <li>▪ Will be included in your November meeting materials and published on OSA's website</li> </ul> </li> <li>○ Milliman will present their analysis at the November 10 Commission meeting</li> <li>○ 2022 Actuarial Study will encompass multiple updates from the 2020 Study</li> <li>○ OSA work products will also be updated to reflect Milliman's new analysis <ul style="list-style-type: none"> <li>▪ OSA to present Solvency Report recommendations at the November 10 Commission meeting</li> </ul> </li> </ul> </li> </ul> <p>Open for questions</p> <ul style="list-style-type: none"> <li>● Senator Conway – Why use a regional wage base as opposed to a state wage base here? When saying 'region', thinks of Oregon and Idaho, so why use regional wage base rather than state wage base in Washington? <ul style="list-style-type: none"> <li>○ Luke Masselink – When saying 'regional', talking about Washington specific</li> </ul> </li> <li>● Senator King – We're going to get a copy of the study before our November meeting? <ul style="list-style-type: none"> <li>○ Luke Masselink – Yes, it will be included as part of the meeting materials and defers to staff for when that will be delivered.</li> <li>○ Ben Veghte – It will go out a week or two ahead of the meeting.</li> </ul> </li> </ul>
<p><b>Expiration of the CBA clause for PFML and impact on employer reporting for PFML and WA Cares</b></p>	<ul style="list-style-type: none"> <li>● Andrea Meewes Sanchez provided the recommendation on the Expiration of the CBA clause for PFML and impact on employer reporting for PFML and WA Cares.</li> <li>● Background: <ul style="list-style-type: none"> <li>○ Both Paid Family and Medical Leave (PFML) and WA Cares Fund contain a provision to exclude premium assessments from employees covered by a collective bargaining agreement (CBA).</li> <li>○ Legislation passed in 2022 (2SSB 5649) sunsets this provision for paid leave only as of December 31, 2023.</li> <li>○ ESD is implementing combined employer reporting for paid leave and WA Cares. <ul style="list-style-type: none"> <li>▪ Inconsistent CBA provisions make this harder for employers to understand and successfully complete required reporting.</li> </ul> </li> </ul> </li> <li>● <b>Recommendation:</b> <ul style="list-style-type: none"> <li>○ Request a statute change to add WA Cares Fund in the CBA exception that expires December 31, 2023.</li> </ul> </li> <li>● Michael Tucker made a motion to accept the recommendation. Ruth Egger seconded the motion. A vote was taken and 13 voted aye, 0 voted nay. The motion was passed.</li> </ul>
<p><b>Pilot project in early 2026 – benefit implementation</b></p>	<ul style="list-style-type: none"> <li>● Dennis Elonka presented on a Pilot Project to be conducted in early 2026.</li> <li>● WA Cares Cross-Agency Agency Executives' proposal: <ul style="list-style-type: none"> <li>○ Recommend to legislature providing the WA Cares' administering agencies with statutory authority to pay WA Cares benefits earlier than July 1, 2026 (but no earlier than January 1 2026) for a small group of eligible individuals. This would allow the agencies to test their systems and processes in production with a smaller group of beneficiaries and fix any problems that are uncovered prior to going fully live in July 2026.</li> </ul> </li> <li>● Risk Management Planning:</li> </ul>

	<ul style="list-style-type: none"> <li>○ The agencies evaluated an earlier launch of WA Cares payments for a small group of eligible individuals that will allow the agencies to use their systems and processes in production before the full demand for WA Cares benefits is available to the rest of the state</li> <li>○ To support a pilot/soft launch, statute change is needed that allows the agencies to make WA Cares benefits payments before July 1, 2026. Current thinking is January 1 of 2026</li> <li>● DSHS, ESD, and HCA believe a statute revision to allow the agencies to engage in rule making that allows a pilot launch of WA Cares Fund services and payments prior to July 1, 2026 offers the most flexible and responsive option for the program. <ul style="list-style-type: none"> <li>○ This approach leaves flexibility for the agencies to determine timing and capacity to support a pilot</li> <li>○ It leaves open on how the pilot is conducted to make sure the appropriate provider network is in place</li> <li>○ It allows agencies to understand their ability to support a pilot based on what is approved by the legislature in the upcoming session that also adds work to the agencies.</li> </ul> </li> </ul> <p>Open for questions</p> <ul style="list-style-type: none"> <li>● Senator Conway – Concerned about agreeing to a pilot here when we have a very important issue about issuing the payment of benefits for disability. If it's decided that these services can't be paid except for long term care and the definition comes forward on long term care, I think it's going to change considerably the structure of any pilot. Doesn't disagree with a pilot here, but just saying that there's some outstanding issues here that make a pilot more difficult. <ul style="list-style-type: none"> <li>○ Dennis Elonka – That is one thing that will have to be worked out. If we keep the scale relatively small (thinking several hundred), we could have a negligible actuarial impact or solvency impact on the fund. It would potentially create an earlier opportunity for people to gain benefits that they would have otherwise had to pay in another six months for. Another option considered is focusing on the near retiree group.</li> </ul> </li> <li>● Michael Tucker made a motion to accept the recommendation. Madeleine Foutch seconded the motion. A vote was taken and 13 voted aye, 0 voted nay. The motion was passed.</li> </ul>
<p><b>“Without interruption of five or more consecutive years” requirement</b></p>	<ul style="list-style-type: none"> <li>● Ben Veghte provided information on the “Without interruption of five or more consecutive years” requirement.</li> <li>● Over past two years, public and legislators have repeatedly expressed confusion over WA Cares' primary pathway to qualified individual status: “A total of ten years without interruption of five or more consecutive years;” (RCW 50B.04.050)(1)(a) <ul style="list-style-type: none"> <li>○ Milliman has determined that eliminating this requirement of no extended interruption would have a negligible effect on program finances</li> <li>○ <b>Commission may want to consider replacing existing RCW 50B.04.050(1)(a) pathway language with the simpler formulation: “A total of ten years”</b></li> </ul> </li> </ul> <p>Open for questions</p> <ul style="list-style-type: none"> <li>● Senator Keiser – Thinks that the simplification approach of just having simply total of ten years as the standard is much preferable than having that subcategory of five or more. Thinks that's a good improvement for understanding and for administration.</li> <li>● Senator Conway – A total of ten years means that you would have to have paid into the plan for ten years over any period of time, is that what we're saying here? <ul style="list-style-type: none"> <li>○ Ben Veghte – That is correct.</li> <li>○ Senator Conway – This is getting rid of the five year and using strictly a ten year vesting requirement, is that what I understand?</li> <li>○ Ben Veghte - The previous requirement was also ten years. If you had an interruption of five or more years, let's say I paid in for 7 years and raise a child and stayed out of the workforce for six years, I'd have to start over. That's what this would be getting rid of.</li> <li>○ Senator Conway - This means basically you have to have ten credit service years to qualify for the plan. Doesn't this push out the payment of our plan instead of July 1, 2026, for ten years?</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Ben Veghte - No because the people who qualify based on three out of the last six years would be eligible sooner. That's our second vesting pathway. Then we have the third pathway now of near retirees who can qualify with one year of contributions.</li> <li>● Senator Keiser – Asked for a reminder of the requirement <ul style="list-style-type: none"> <li>○ Ben Veghte – At the time of application for benefits, if I'm 28 and had an accident or illness that caused a need for long-term care, we would do a lookback going back six years. If I had paid in three out of the last six years, they would be eligible for benefits then.</li> <li>○ Senator Keiser - Is there a requirement for total permanent disability with this three to six years vesting?</li> <li>○ Ben Veghte - No, it's simply the same benefit trigger as we have for the program as a whole, which is three ADLs.</li> </ul> </li> <li>● Laura Cepoi made a motion to accept the recommendation. Madeleine Foutch seconded the motion. A vote was taken and 12 voted aye and 1 voted nay. The motion was passed.</li> </ul>
<p><b>Crediting Shared Savings to WA Cares Fund</b></p>	<ul style="list-style-type: none"> <li>● Ben Veghte provided an update on Crediting Shared Savings to WA Cares Fund</li> <li>● At July Commission meeting, it was stated that: <ul style="list-style-type: none"> <li>○ Any savings achieved through a potential shared savings waiver with the federal Centers for Medicare and Medicaid Services should be credited to the WA Cares Trust Fund, since these savings result directly from WA Cares Fund expenditures; and</li> <li>○ Since WA Cares expenditures are funded by WA Cares premiums, savings resulting from WA Cares expenditures should be used to maintain or lower WA Cares premiums for Washington workers.</li> </ul> </li> <li>● If crediting any such potential savings to the WA Cares Trust Fund were in statute, it would allow for a more holistic picture of the net financial impact of the WA Cares Fund, providing an additional perspective on the program's finances</li> <li>● <b>Draft language to operationalize this suggestion:</b> <ul style="list-style-type: none"> <li>○ "If Washington is successful in obtaining a waiver from the Centers for Medicare and Medicaid that results in shared savings because of WA Cares Fund spending, the amount of shared savings must be deposited into the WA Cares Fund Trust Fund."</li> </ul> </li> <li>● Senator Keiser made a motion to accept the recommendation. Senator Conway seconded the motion. A vote was taken and 11 voted aye and 2 voted nay. The motion was passed.</li> </ul>
<p><b>Public Comment</b></p>	<ul style="list-style-type: none"> <li>● Public Comment captured in the table below.</li> <li>● There was 1 piece of written correspondence received. This was attached with the meeting materials.</li> </ul>
<p><b>Review Agenda</b></p>	<ul style="list-style-type: none"> <li>● Final actuarial baseline analysis (Office of the State Actuary and Milliman)</li> <li>● Administrative Expenses Report</li> <li>● Receive final proposed recommendations from Portability Workgroup</li> <li>● Draft Commission Report</li> </ul>
<p><b>Wrap up</b> Action Items Review Adjourn</p>	<ul style="list-style-type: none"> <li>● Action items captured in table below</li> <li>● Meeting adjourned at 3:42 p.m.</li> </ul>

## Action Items

ID	Meeting Date	Action Item	Owner	Due Date	Comments/Updates	Status	Completion Date
61	9/13/2022	Asking Portability workgroup to plan for reciprocal benefits if other states enact similar programs					
62	9/13/2022	Requesting that staff map the types of benefits people would be eligible for.					
63	9/13/2022	Benefit Eligibility workgroup to continue their work with a focus on the meaning of long-term care.					

## Public Comment

Name	Comment
Dani Rice	My name's Dani Rice and I'm from (Indiscernible) Washington. 15 years ago, I became a caregiver. At that time, I really didn't realize just how important the topic of long-term care would be in my life. So, for this comment I was trying to think of when long term care became important to me. Perhaps it was when I witnessed both sets of my grandparents have to sell everything and spend down to qualify for Medicaid, one of which is still attempting to qualify. The Washington Cares program sure could have alleviated a lot of the stress. Perhaps it's important to me because I'm also a rural caregiver, and being so rural, there's not as many resources available. In my town there's only a small handful of caregivers, while there's a large amount of Baby Boomers. It became most important to me when four years ago I suffered a spinal cord injury after a medical accident. When at the age of 30, I found myself needing a wheelchair for the rest of my life. I am now one of those preexisting conditions. I also don't qualify for disability because of my husband's income. And all I keep thinking is I need we all need the Washington Cares program now. Please.
Ana Ascanio	My name is Ana. I am a coordinator for a coalition of organizations and individuals impacted by long term care that have come together to support the WA Cares program. In the past six months, I've met with over 30 community organizations, including the Lupus Foundation, RFPU, and multiple other labor unions and community organizations. And what I've learned from this meeting is that everyone has been impacted by the long-term care crisis. Whether by paying for long term care for themselves or caring for a family member. And when people learn about WA Cares benefits, they understand the positive impact it can have on their lives and their community, and they really support it. Communities across Washington support WA Cares and are looking forward to its implementation. A projected 30,000 individuals are projected to receive benefits in 2026. We really appreciate the important work of this Commission to improve the program, and we will continue to do our part as stakeholder organizations and coalition to educate people around the state about WA Cares and thank you so much for your time.
Elizabeth Hovde, Washington Policy Center	I'm Elizabeth Hovde with the Washington Policy Center. I'm for repealing the long-term care law as it will not fix the long-term care crisis in our state, as promised. As the Washington Cares Fund has solvency concerns and as the new payroll tax penalized workers, including low-income ones. And making Washington a less attractive place to live and work. I'm here today, however, hoping there is interest among the Commission in suggesting to the legislature the following things, if the law is not repealed. We are rightly fearing a growing population because people are not planning for long term care needs and because Medicaid is being used for that lack of planning by people who are in need and people who are not in need. Instead of better protecting Medicaid from misuse and encouraging the planning needed for possible long-term care, the current messaging attached to the WA Cares Fund tells workers that because of the law, workers can have peace of mind about possible long-term care. I think that's dangerous. The messaging needs to change immediately. Not everyone is going to qualify for the WA Cares lifetime benefit of \$36,500 for many reasons. So, I hope the messaging changes. I think it's dangerous. I think it's going to add to the problem of not planning for long term care. Secondly, I'm concerned about the

	employment security department's hands being tied because of the legislation when it comes to H2A workers and others who were recently exempted.
Jess Gomez, SEIU 775	My name is Jess Gomez, and I work with SEIU 775, managing our WA Cares outreach work. Today we've heard from Commission members that have been diligently studying various options for addressing issues that were identified by legislative members and stakeholders as really crucial touchstones for improving WA Cares. SEIU 775 supports addressing these issues in ways that strengthen the program. But we must be careful not to undermine it in the process, by reopening private insurance exemptions, narrowing the definition of long-term care, or providing cash benefits or reimbursements to those who move out of state. I urge the Commission to put forward policy recommendations that ensure the integrity of the program and the original intent of the law to ensure that all Washingtonians have access to affordable long-term care. Thank you.
Cathy Knight, W4A	I'm the Director for the State Association for the 13 area agencies in Washington state, and as I was driving across this beautiful state today and listening to all the work you're doing, first of all, I'm in awe of the complicated work you're doing to make this benefit possible for thousands of Washingtonians. It's so important. Their agencies have almost 50 years of experience being that local, trusted resource, helping people in times of need, identify resources. We know how important that is. We've been doing caregiver services for over 30, and people do need to plan ahead. And I think one of the great things about this new benefit is it will help people think more about the needs we know that are out there for folks, particularly to help them age with dignity as independently as possible. So, I just want to express my appreciation for all the work the Commission is doing. Thank you.
Sandy Wood	My name is Sandy Wood. I'm an agent and owner of The Benefits Academy. And I wanted to provide a couple of informational things. I have been taking notes while we've been going through the program. Someone asked what do insurance companies use for loss of activities of daily living? I'd like to clarify that it's two of five activities of daily living or cognitive impairment. They use that as a separate. The ones that they typically use are bathing, dressing, eating, toileting, and transferring. I do you do have a concern with covering short term disabilities. That's why most of the long-term care policies on the marketplace, you'll see that they have a 90 day to 180 days waiting period so that someone doesn't get benefits during that time. So that eliminates the short-term disabilities from the programs. So, you may want to look at that. I'd love to see the Commission tackle the moving from one plan to another question that people have to allow people to move from one plan to another without losing their opt out exemption. And then one other piece that I'd like to give you guys is that Ben noted that high earners have access to other policies that may have been less expensive. I would like to let you know that I provided 450 groups of employers with a policy that was life with long term care rider.