

LTSS Trust Commission Qualified Individual Workgroup Summary

Commission Recommendation on the Establishment of Criteria for Determining that an Individual Has Met the Requirements to Be a Qualified Individual

The following Long-Term Services and Supports (LTSS) Trust Commission members and agency staff met twice in September to provide feedback for the Long-Term Services and Supports Trust Commission's recommendation to the Legislature or the appropriate Executive Agency regarding the establishment of criteria for determining that a person has met the requirements to be a qualified individual (vested).

Discussion was focused on the approach to determining qualified status based on 'three out of the last six years.' The LTSS Trust Commission Workgroup recommends that the point in which 'three of the last six years' is considered is at the time of application, when an individual is applying for benefits. It is assumed that application occurs when someone has a need for LTSS and reflects the approach intended by the legislature and actuarial modeling for the current premium payments. This approach does not provide meaningful coverage for near retirees who need LTSS, but is suited for individuals that have an immediate need for care during their working years. For the sake of simplicity, this approach also assumes that once ESD deems someone a qualified individual, they do not lose this status even if DSHS needs to reassess a need for assistance with activities of daily living.

The Workgroup noted the desire to determine other options to serve individuals nearing retirement before they could meet a 10 year qualification requirement. However, it was determined that the challenges of covering those nearing retirement today throughout their retirement would be too complex to navigate now, and the costs would likely drive up program premium rates significantly. After modeling is available from Milliman on this policy issue, the Working Group proposes reconvening in 2021 to considering such options.

Attendees:

Commission Members

- Andrew Nicholas
- Dan Murphy
- Judy Warnick
- Madeleine Foutch
- Michael Tucker
- Nicole Macri

Staff

- Andrea Meewes Sanchez, DSHS
- April Amundson, ESD
- Ben Veghte, DSHS
- Beth Marchand, ESD
- Jacqui Boydston, DSHS
- Janette Benham, ESD

Options Developed:

1. (*Recommended Option*) "3 out of the last 6 years" is clarified (in rules or statute) as a test applied at time of application for benefits, i.e. when someone needs assistance with activities of daily living (ADLs). This also assumes that once an individual is determined

qualified by ESD, they remain qualified for life even if they need to be reassessed for an LTSS need by DSHS.

2. Three out of the last six years is clarified in rule or in statute to mean three years out of any six consecutive years, meaning when an individual has become qualified in this fashion, regardless of when their ADL needs occur, they are qualified for life.
3. For the transition cohort (e.g. only for those born in 1960 or earlier), “3 out of the last 6 years” is clarified (would require statutory change) to mean 3 years out of any 6 consecutive years; for everyone else, now and in the future, “3 out of the last 6 years” is a test applied at time of application, i.e. when someone needs assistance with ADLs.
4. Like Option #2, except provides only half the benefit (\$18,250 instead of \$36,500) (would require statutory change)
5. Like Option #3, except provides only half the benefit (\$18,250 instead of \$36,500) (would require statutory change).

Summary Finding: The Workgroup considered all these options carefully and recommended pursuing Option 1. At the same time, the Workgroup proposes reconvening in 2021 to discuss potential pathways for covering those nearing retirement.

Background & Relevant Law

The LTSS Trust Statute (Chapter 50B.04 RCW) requires the LTSS Trust Commission “shall propose recommendations to the appropriate executive agency or the legislature regarding the establishment of criteria for determining that an individual has met the requirements to be a qualified individual as established in RCW 50B.04.050.”

According to RCW 50B.04.050, the Employment Security Department (ESD) shall deem a person to be a qualified individual if the person has paid the LTSS premiums required by RCW 50B.04.080 for the equivalent of either:

- (1)(a) A total of ten years without interruption of five or more consecutive years; or
- (1)(b) Three years within the last six years.

When deeming a person to be a qualified individual, ESD shall require that the person have worked at least five hundred hours during each of the ten years in subsection (1)(a) of this section and each of the three years in subsection (1)(b) of this section.

Under RCW 50B.04.080, ESD will assess premiums for each individual. Employers will collect premiums from employees through payroll deduction and remit payments to ESD.

Qualified individual is defined in RCW 50B.04.010(14) and means an individual who meets the duration of payment requirements, as established in RCW 50B.04.050. ESD will make determinations regarding an individual’s status as a qualified individual based on statutory definitions and requirements.

Premium assessment: (1) Beginning January 1, 2022, ESD shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The

initial premium rate is fifty-eight hundredths of one percent of the individual's wages. The premium assessment cannot go any higher under current statutory requirements.