LTSS Trust Coverage Options for Individuals Who Became Disabled Prior to Age 18

Solvency Considerations and Challenges

The current actuarial modeling conducted by Milliman, which estimates a premium rate of 0.55% as being necessary to cover program costs (assuming the ballot initiative ESJR 8212 passes),[1] assumes that the only people with disabilities excluded from coverage are those whose intellectual or developmental disabilities prior to the age of 18 could have plausibly generated a need for long-term services and supports in youth. The modeling assumes people who were born deaf, for example, are covered in the current statute. This helps explain the modest projected cost of expanding coverage to cover all people with disabilities prior to the age of 18 – the modeling assumes the only group who would be newly covered is the IDD population.

While this is true of the modeling, it is not clear in the statute. If the legislature does not amend the statute to cover all individuals with disabilities prior to age 18, then either in statute or in rulemaking it will be necessary to clarify what "disability" prior to age 18 means, and subsequently it will be necessary for DSHS to develop an administrative apparatus to investigate every applicant for LTSS Trust benefits to see if they were disabled prior to age 18. Many of these applicants will have spent their childhood in one or more other states or other countries, rendering administration of this extremely challenging and expensive.

Extending LTSS Trust coverage to all adults with disabilities that onset prior to age 18 would raise the premium required to cover benefits from 0.55% to 0.57% if SJR8212 passes, and from 0.66% to 0.67% if SJR8212 fails.

Options for whether and how to cover individuals who became disabled before age 18

Option One: Cover all individuals who became disabled prior to the age of 18

1. Pros
    a. Fills gaps in care for individuals who became disabled prior to the age of 18 who have paid in and have work history to qualify, allowing them to receive earned benefit without Medicaid LTSS downsides of potential waiting periods, less flexible services, stricter disability threshold, and estate recovery
    b. Eliminates inequity created by the current legislation of people paying in but being ineligible for benefits
    c. Eliminates high administrative expense associated with investigating childhood disability status of every LTSS Trust applicant (potentially 50+ years hence)
    d. Saves state general fund money by paying some LTSS benefits through new LTSS Trust revenue source
    e. Reduces potential for ADA lawsuits

[1] Note: The projected program cost is distinct for the statutory premium rate. The premium rate is higher (0.58%) to allow for margin, i.e. unpredictable factors that affect solvency such as wage growth rates or inflation.

2. Cons
    a. Adds .01 - .02 percentage points to the premium required to cover benefits, reducing the margin for solvency
    b. Insures a known need (vs. a risk), which charges to plan participants a cost which should arguably be borne by society as a whole, not the program's risk pool (insurance typically insures risks that have not yet transpired)
    c. Requires a statute change
3. **Stakeholder feedback**:
    a. I think it is important to recognize that people with disabilities (by any definition) actually WORK and should be just as eligible for a benefit they pay into as anyone else. If they make it through their vesting period, they should be just as eligible as anyone else. If it means paying *very* slightly higher premiums in order to achieve equity, that is the way to go.
    b. Including individuals disabled prior to the age of 18 would mean the average WA worker would only pay around $8 more a year to provide equity to people with disabilities that have also contributed. The state will save admin costs because you won't have to chase down information on disability before age 18 if you include this group.
    c. It is important to remember that this is a program that people pay into in order to receive benefits, not a social services program. It is important to only include people who pay in.
    d. May need to review eligibility based on ADL only – currently leaning strongly toward physical/visible disabilities. Mental health impacts are real, and sometimes not visible. The Commission should look at this in the future.
    e. People who vest that are receiving services through another program- could that program be reimbursed for services up to the lifetime benefit $36,500? It could be tricky for someone with an intellectual disability to wade through the system and apply for LTSS Trust benefits. It seems coordination could happen behind the scenes since they would already have ADL needs identified and systems in place to pay providers, so could save on overhead.

Option Two: Clarify in statute or agency rules that LTSS Trust exclusion for individuals who "became disabled prior to the age of 18" only applies to individuals with an intellectual or developmental disability that generated an LTSS need prior to the age of 18, consistent with actuarial modeling.

1. Pros
    a. Consistent with actuarial modeling used for the current legislation, which keeps payroll tax low, no impact on solvency
2. Cons
    a. Excludes individuals from coverage who have paid premiums and have a work history to qualify, causing significant equity issues

   b. Very difficult to administer; everyone must be screened (to determine whether they are to be excluded) and uncovering records for an elderly person to determine disability prior to age 18 will be difficult
   c. Potential for lawsuits due to ADA
3. **Stakeholder Feedback**
   a. Other people who might have long term care insurance wouldn't be disallowed from benefiting from the trust. The exclusion only applies to people with disabilities who might presumably have long term care coverage (even if it is from Medicaid), which is unfair.

Option Three: Continue to exclude individuals who became disabled prior to the age of 18 with no changes to the current law

1. Pros
   a. Keeps payroll tax low, no impact on solvency
   b. Aligns the program with intent to address planning needs of the age wave and does not "insure" an existing need
2. Cons
   a. Excludes individuals from coverage who have paid premiums and have a work history to qualify, causing significant equity issues
   b. Due to the unclear definition of disability, may also exclude qualified individuals from coverage whose disability in youth does not correlate to a long-term care need, causing significant equity issues
   c. Very difficult to administer with disability not defined, everyone must be screened (to determine whether they need to be excluded) and uncovering records, potentially from many different systems, for an elderly person to determine disability prior to age 18 will be difficult
   d. Potential for lawsuits due to ADA
3. **Stakeholder Feedback**
   a. I wanted to say that is seems so unfair and discriminatory to have this exclusion- it penalizes people with disabilities who work. Why does it matter what happened to someone before the age of 18 if the person has been working enough to get sufficient credits and qualifies to use this benefit. They have paid in like everyone else. It is a limited one-time benefit. If they otherwise qualify to use the benefit and have paid in, they should be eligible. For a law that seeks social justice and progressive policy in our state, we have really missed the mark on this particular issue. In my humble opinion.
   b. Exclusion causes a huge equity and fairness issue. If this exclusion remains, then anyone who is deemed disabled prior to the age of 18 are ineligible for LTSS then they should be exempt from paying into the fund.