



Long Term Services and Supports and Paid Family and Medical Leave Potential 2022 Legislative Changes

August 2021

Summary

Amendments to the Long Term Services and Supports Trust Act (LTSS, or WA Cares) are needed to add provisions related to data and privacy sharing similar to the Paid Family and Medical Leave (PFML) law. This will ensure that the LTSS program can share necessary information between Leave and Care Division programs and with other state agencies to ensure efficient program administration and perform program evaluation for both programs.

This document provides an overview of these amendments and discussion regarding why the amendments are necessary. The department will work with interested stakeholders, including other state agencies that have program implementation and administration responsibilities to ensure there is shared understanding prior to introducing legislation.

Data Sharing and Privacy

The PFML program has a chapter in statute addressing privacy under chapter 50A.25 RCW. No such provisions currently exist under the LTSS law. In order to facilitate necessary LTSS program administration, we need clarity and authorization from the legislature regarding data sharing and privacy.

Our recommendation is to propose legislation that creates a section in the LTSS law declaring that information collected for the purposes of wage reports and premiums, as well as information to determine qualified individuals, is considered private and confidential by pointing to chapter 50A.25 RCW. The bill will propose to also amend specific sections in chapter 50A.25 RCW Privacy to accommodate both programs. Sections under that chapter include:

RCW 50A.25.070 Data-sharing contracts—When authorized—Disclosure to local or state governments.
RCW 50A.25.110 Disclosure by the family and medical leave program of the department—When authorized.

LTSS law requires that to the extent feasible, the program shall use the same premium assessment, collection and reporting procedures as the PFML program. The department believes this to mean that the intent was to require one report for employers for both the LTSS and PFML programs. Privacy is not addressed in Title 50B RCW, and under current structure, comingled data that is reported would not be allowed to be shared with the other administering agencies for the LTSS program. The proposal will create a new section under the LTSS law pointing to chapter 50A.25 RCW and amend sections of PFML statute to state that comingled data from the two programs can be shared with other agencies subject to data sharing agreements. Sections in chapter 50A.25 RCW will need to be modified to apply to the LTSS program. For example, RCW 50A.25.070 addresses data sharing contracts between PFML and other state or local government agencies. In addition to the department, multiple other state agencies, including the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), and the State Actuary, have implementation and administration responsibilities under the LTSS law. The modified section would need to include subsections authorizing the department to share potentially sensitive data necessary for program operations with DSHS, HCA, and the State Actuary.

Contact

April Amundson, Policy and Rules Manager, Leave and Care Division 360-485-2816