

>> I can hear you. Thanks.

>> We'll get started in a couple of minutes.

. . . . While people are calling in a quick reminder if you are not speaking to the we'll get to a little later please keep your phone on mute. And also can I confirm that Candice is on the line? Our stenographer? . .

test test. It's a couple of minutes after nine so why don't we get started.

Another reminder to please mute your phones at all times during the call unless you are speaking good morning, everyone. My name is Brett cane, I'm a policy analyst for the recently renamed leave and care division formal formally known as the paid family and medical leave division of the Washington state employment security department. This conference call today is for rules hearing regarding proposed rules addressing exemptions from the new long term services and supports program. If you would you like to provide written comments related to these rules you may do so by email at rules@ESD.WA.GOV. Again, that's rules@ESD.WA.GOV. We'll continue to accept written comments through through the close of business today.

To view the electronic version of the proposed rules that will be discussed this morning you can go to ESD.WA.GOV/newsroom/rulemaking/LPSF. That is ESD.WA.GOV

ESD.WA.GOV/newsroom/rulemaking/LTSS. Once on that page under the rules under development heading, click on phase 1 dash exemptions and the rules for today's hear hearing are titled proposed rules under the document settings. Once you click that you will see the proposed rules that would be reviewing and accepting comments on this morning. Does anyone need me to go over those instructions again so that you can get to the proper place? We will go through each proposed section that addresses exemptions in order during the hearing. So we will go ahead and get started.

Pursuant given to the authority under Washington state law RCW 50B.04.020, RCW.04.085, chapter 42.30 RCW of the open public meetings act in chapter 34.85 of the administrative procedure act this hearing is mere by convened.

For the record, this hearing is beginning at 9: 9:05:00 a.m. on April 6th, 2021 by conference call. This hearing is convened to consider testimony concern concerning long term services and supports rule making at a high level that's rule making creates knew rules addressing exemption the long long term services and supports program, the department considers necessary for program administration. The department is always working to re refining and improve the program and is rule making is one way to provide clear guidance to public. Notice of this hearing was file with the Washington state register on March 3, 2021, as WSR number 21/06-110 was sent to interested parties and posted on the department web page page. My name is Brett cane and I'm a policy analyst for the leave and care division of the Washington state employment security department. I represent acting commissioner seek as hearing officer providing this public rule making hearing. There are staff members in the leave and care policy rules attending this hearing by phone. Please introduce yourself now by name and title. Jay Jason Barrett lead policy analyst, leave and care division.

>> Janet, I'm the rules cared nay for for the leave and care division. Thanks Jason and Janet.

Please be advised this hearing is being transcribed by a court reporter and a transcript will become part of the official rule making file. To facilitate this transcription please state and spell your name before your testimony. Also note this hearing is convened to consider comments on the proposed rules. Because of the formal nature of this hearing it is unlikely to answer any questions you may ask. Including questions regard regarding individual insurance policies and whether those policies satisfy program exemption requirements. For RCR 50B .04.085 the department will begin accepting exemption applications October 1 this year through December 31 of 2022. If you do pose a question I will ask you to rephrase your question as a comment. Written comments on this proposed rule will be accepted through today by email at rules@ESD.WA.GOV.

(overlapping speakers)

>> Can I please ask everyone to have their phones on mute.

A statement of the agency reasons for adoption of the rule including a summary and response to all comments received at the publication of the proposed rules will be placed in the permanent rule making file and posted online. This document will be sent to all interested parties who have signed up to receive long term services and supports emails. We'll start with Janet (inaudible) who provide (inaudible) proposal someone is not muted. We are getting background noise. If you can please again just check to make sure you are muted.

Again we will begin with Janet who will provide a brief explanation of the proposal. Thank you, Brett.

The long term services and support supports act was passed by the Washington state ledges legislature in 2019. This act was established to provide long term services and supports benefits to persons who have paid into the trust program for a specific amount of time and who have been assessed as needing a certain amount of assistance with activities of daily living. Several state agencies share responsibility to implement and administer specific program functions.

ESD responsibilities are to accept and approve applications for exemption to the trust program, assess and collect premiums, and determine if individuals have paid into the program for the required period of time in order to be entitled to receive benefits. This formal pu brick hearing today covers the popics of exemption -- topics of exemption including exemption eligibility requirements, application requirements, what happens after an exemption application is processed, employee and employer responsibilities regarding exemptions, and whether an exempt employee is entitled to a refund of premium. As Brett previously stated, we will begin accepting exemption applications on October 1 of this year and will continue to accept applications through December 31st of 2022 per RCW 50B.04.085. I encourage you to read the text of the pro proposed rules for a more robust understanding. The draft rules are intended to interpret and clarify title 50B of the revised code of Washington. Thank you for your interest and participation in rule making efforts to administer this important program and we look forward to hearing your comments today. Thanks. We will now hear testimony from those on the phone. When you testify please speak clearly, state your name, spell your last name, and state who you represent if you are here and representative capacity. Please remember to unmute your phone prior to speaking and remute your phone after you are done providing testimony. We are now ready to accept public comment from those on the phone. I'll pause for a

second if people need me to go over the instructions for can getting to the proposed rules. Let me know now if anyone needs to be there and is not there and I can go over the instructions again. If you can do that one more time that would be great.

Il'm on the page but I can't find

>> So if you are on the page which is ESD.WA.GOV/news

ESD.WA.GOV/newsroom/rulemaking/LTSS, under the rules under development heading click on phase 1 -- click on phase 1-exemptions and the rules for today's hearing from are titled proposed rules under the documents heading. That should take you to a page that says chapter 192-905WAC exemptions at the top. Thank you. Got it.

>> Okay. So let me get back to here. So we are now ready --

>> I have a question. Sure. By venue section it talk about the employee long term care insurance coverage may request additional information. From employee. employee. Can I interrupt you. We are not going to be answer answering or addressing questions regarding the body of the rule. This is to accept comment on the rule. If you have questions about the intent or meaning of the rule, please send us an email and send an email to ESDGP ESDGPPFMLpolicy@ES --

ESDGPPFMLpolicy@ESD.WA.GOV. Because of the formal nature of this hearing we are not able to address questions about the meaning or content of the rule. We are here to accept comment. So with that said --

>> Yeah. Address is on the web page. It's hard to write it down. down so fast. Is this email address you mention is on the web page you mention? It is not. Did you need me to repeat it again? Yes. -- it's ESEGPPFMLpolicy ESDGPPF as in Frank, M, M as many Mark, L as in Larry, policy@ESD.WA.GOV. Okay. Got it. Thank you. You are welcome. Okay. So we will begin taking comments on proposed WAC 192-905-005 titled eligibility requirements for an employee to receive an exemption from the long term services and supports trust program. Does anyone have a comment or comments on that proposed section? at's proposed WAC 192-905-005 eligibility requirements for for an employee to receive an exemption from the long term services and supports trust program. Okay. We'll move to the next proposed section. Does someone have a comment? Yes, hi. Sorry, I was just going to ask so we're going to section by section on the exemption document proposed rules. Chapter 192-975 WACAC exemptions. Is that the document we are reviewing at this point? That is. Yes. Then we'll go section by section. Okay. I have a comment. Can you state your name and spell your last name and say who you are affiliated with if you are here in a representative capacity please. My name is Jan J A N Fernandez, F E R N A N D E Z. I am an insurance broker. I am not representing my company at this point. But I feel that you need to include some like finite terms as to how long an proi an employee must carry LTC policy if getting it from a private insurance company. And I think you need to de define what is acceptable.

>> Thank you for your comment.

>> You are welcome. I also have a comment. Great.

Please state who you are. Capacity you are here with. My name is Jason Richard, my last name is R I C H E R T. I feel there needs to be some clarity around definition of when the policy is in force. I

believe there's some confusion under the current language as to what time period people have to put a policy in force northed to meet this -- in force to meet this extremely short window to request exemption. Thank you for your comment. Any other comments on this section, the first section we are rooking at 19 -- looking at 192-905-005. Hello. I have a comment. This is Valerie LAROQUE. I'm also an insurance representative agent not represent representing anybody. I like first person I'm wondering if you can -- I don't know maybe it's already written somewhere where you can define more clearly if certain insurance life insurance writers will address the requirement, we are trying to be able to offer clients options or just long term care, pure long term care writer the way it is. And also clients are unsure about those that are homemakers right now, if you can bring more clarity to if they acquire insurance now and then go back to work five years from now, what the process is for exempting at that time. Maybe it's written somewhere that I haven't read though I have read a lot. So thank you.

>> Thank you for your comment.

>> I have comments too. Okay. Can you please state your name and spell your last name.

>> My name is last name is CHENG. I'm also working in the financial planning industry.

But I have been working in high-tech for a long time and I have a question right now especially after the COVID, a lot of people are working at home so there are a lot of places working place residence place in different states. What's the clear cut in and out? Thank you.

>> Thank you. I have a comment. My name is Brent price P R I C E. I think that you need to define more clearly what documentation is required to prove that you have long term care insurance where it's presented how it's presented, in person online, I think there needs to be more specificity on that.

Thank you. Thank you. Any other comments on the first section? I like to comment. My name is Mark INGERSOL with Washington brokerage. I believe the RCW does address some long term care writers specifically 488-3020 specifically names long term care writers on life insurance. I would like to I believe we should probably define whether a chronic illness writer would also qualify.

Thank you. Thank you. This is Joanna, last name MUMMERT. And I would just like to comment that -- I'm also an insurance representative, I would just like to present the idea that the rules as they are right now are very difficult for the common person, common consumer to understand. And so I feel there should be continued confusion -- will be continued confusion on this spire process so pro on this entire process so if it could be sumlyityied to people understand what they need to do to become exempt, basically requit reiterateding what everyone said. Basically how much coverage needs to be in place, if there is a certain dollar amount if it needs to be equal to what is in the bill.

, if it needs to be more. Thank you. Thank you.

>>Professor: Any other commentsts on this first section? Okay. Moving on to new proposed section 192-905-010, how and when can an employee apply for an exemption from the long term services and supports trust program. My comments specific to this section? I have a comment. This is Jason RICHERT again. R I C H E R T. Although I know currently defined in RCW 50B .04.085, I still believe this is an arduous task to only allow exemptions for that brief 50 month period as de defined as October 1, 201 through December 21, 2022 as there are many people who will want to seek exemptions beyond the December 31st, 2022 date. I believe there should be a provision that allows for

application for exemption regardless of the date. Thank you.

>> Thank you. This is Jan Fernandez.

F E R N A N D E Z. I believe that this section needs to clarify how often the department is going to require people to apply for an exemption. And what the ramification is if they no longer possess an individual policy. Also I don't see anywhere that you address people who are moving in from out of state.

>> Thank you. You are welcome. Any other comments specific to this section? How and when it can an employee apply for an exemption from the LTSS program. Yes. I have a comment. My name is Sylvia HUBBARD. I'm working for a health and welfare trust and I have a comment about number 2, if approved for an exemption the employee exemption will be accepted the quarter immediately following approval provided we have a short opt out window I request that the exemption will be effective immediately in the following month. In the month following the approval.

Thank you.

>> Thank you. Any more comments on this section? Yes. I'm last name CHENG. When you define how and when I suggest you need to define how much early before the -- started so the people clarify the rules instead of to the last (inaudible).

Thank you.

>> Thank you. This is Joanna MUMMERT again. I would like to propose that the exemption application be available for preview as soon as possible on the website. Before the October 1 window opens.

>> Thank you. I have a comment, my name is Nguyen long, I'm in charge of financial services industry.

I would like to propose an an extensions of exemption time frame of actual policy that needs to be in force to call pi for exemption for example we are getting a date of July 24th. I propotion that if we have until October October 1st to apply for an exemption then we should be able to extend that to a later date.

Either October 1 or later to give more time to apply for that. To put a policy in force in order to apply for an exemption. Thank you for your comment. I have a comment. Go ahead.

>> This is Brent price, P R I C E. This is a follow-up on the last two. I think that the application for exemption should be viewable before the date that the insurance has to be in force. I also agree that it should be October 1st we should have up until the time that the exemption actually begins to apply and the application and any information regarding what constitutes (inaudible) insurance and all definitions should be in place well before we approach that deadline deadline. For having the coverage in place.

Thank you. Thank you. This is UKI check again. I do agree on that. Because if you don't have clarify the rule before the exemption before the policy closed people don't have choice because don't know what the option and what's comparison. So the rule should be clarified way before the policy in force so people really have the time to think about and have a choice. Thank you. Thank you. Mark INGERERSOLOL MARK INGERSOLL. I do agree with the past few statements that we should have

ample time to re review the forms, what is required, before the opt out period question begins.

Makes common sense. Thank you.

>> Thank you.

>> Any any more comments on proposed WAC how and when can an employee apply for an exemption from the LTSS trust program? This is Joanna MUMMERT. One more comment. And it's -- it's actually question but I'll put it in the form of a comment, something I was personally wondering about. about. Was if there's going to be to clarify that the information provided, to what extent it is verified and mostly if there's communication between the Washington office of the insurance commissioner to verify coverage. I think there could be possible concerns about privacy and so the comment being please just clarify if there's going to be conversation and communication between state departments for department state departments for coverage verification. Thank you. Unless there's further comments we'll move to the next section. WAC 192-905-015, what happens after an employee's exemption application is processed. Proposed WAC 192-905-015, what happens after an employee employee's exemption application is processed.

>> This is Jan Fernandez again. I see in bullet point 3 that an employee must show their letter of approval to a new employer. However, you do not state that you have to show proof. So if you are going to have an approval letter be the only substantiation required, an employee could drop whatever private insurance they have and just hold on to the letter so you need to define the substantiation for the approval. Thank you.

Other comments on the proposed section showing what happens to employee application is processd?

>> This is Mark INGERSO willLL again, I think you should clearly define what would prevent the exemption. From being approved.

Thank you.

>> Thank you.

>> This is Joanna MUMMERT again. Comment regarding if there will be like a master database of exemptions or if the only way to receive an exemption is with the original copy of the approval letter.

>> Thank you. This is Valerie LAROQUE again. I'm just -- I think it would be great to have clarify clarity around if a person is not working during the time period of needing to present this exemption to their employer and they are not able to get a letter from an employer, how would they become exempt at their next work location if they can present again, what are hay signing like if there could be -- what the paperwork is, what they would be needing to submit so that they can be exempt another employer or if they just have to be working between October 1, 2021 and October -- December 2022 in order to get an exemption letter from an employer. Thanks. Is there a sample letter too.

>> Is there a sample letter there as well? If you canned state -- if you canned state if you could state your name and reframe that as a comment. Sorry, I just jury jumped on. Sol man Reece, fortune 360 group. Is there a sample letter that is acceptable to the state regarding employees opting out? As muchof clarification. The rule is stating that there would be a letter that would be produced by the employment security department, that the employee could present to an employer. The language in

the proposed rule isn't stating employer would produce a letter for the employee.

>> Got you.

>> Jan Fernandez.

F ERNANDEZ. Referring to bullet point 1. It states that if an employee fails to notify an employer of their exemption the exempt ploy employee is not entitled to a re refund of any premium deductions made before notification was provided.

I think you need to define a period of time that an employee has to present the exemption letter. And specifically prior to first day of employment, within the first 30 days, just give it some more clarify clarity and definition. Thank you.

>> I have a question. This is UKI CHENG again. You only mention that employee apply for exemption. But on the other hand if the employer by group long term care policy for the employee, how this can be processed? Thank you. Thank you. Any other comments --

>> Yeah. One more. This is Solomon Reece, fortune 360 group. I may have missed this jumping on late.

A lot of the products products have a 90 day elimination but a lot more benefits than the \$36,000 lifetime benefit that the state provides. Is there any clarification on that? Mellow so you are stating you would like to see clarify clarification regarding -- I know you juryied on jury jumped on late.

Raise r because of formal nature of this hearing we are accepting rules comments and not accepting questions at this point. That would be nice to have some clarification on the elimination period that the State has which is 30 days or less. And a lot of the products out there have a 90 day elimination but higher coverage and lot better coverage than the state plan. So be nice to see clarification on that.

Thank you.

Any other comments on this before we move to the final proposed section? Okay. The last section that we will be accepting comments on today is proposed WAC 192-905- 192-905-020 titled is an exempt employee entitled to a refund of premiums? Comments on this section, proposed SEC.

section. Yes. My name is Sylvia HUBBARD.

I speak on behalf of a health and welfare trust. My comment is in regards -- I think it was mentioned before before, number one, providing clarification about the time frame in which an employee has to notify the employer of the exemption. Also in regards to number two, any deductions made before motortycation was provided to the employer remain with the employer. I'm not an accountant but I question if premiums with specific purpose of funding the LTTS trust program, if an employer can remain -- retain those funds withheld from employee wages, there are specific rules when it comes to employee wages and also from the administrative side, an employer is withholding these premiums via deduction and records those I believe quarterly to the E ESD and forwards those payments or these premiums to the state. I think it it would be undue burden to employer to determine who has not made -- has informed the employer after the fact and that the employer has to re remain those premiums rather than just sending that off to state along with all the other premiums they are withholding with in that quarter. Thank you.

>> Thank you. This is UKI CHENG again, it depends how long a process for the State, so when if is it

possible for the exemption to be final according to the date the employee applies instead of receive exemption letter from state and notify it to the employer. Thank you. Thank you. Other comments on this proposed section? Addressing whether an exempt employee is entitled -- from the premiums? Is there any further testimony from anyone on the phone for any of these proposed sections before I conclude this hearing? I'll pause another might be minute. Any further testimony from anyone on the phone? In conclusion this hearing was convened to consider testimony on long term services and support rule making. All oral testimony presented at this hearing and written submissions will become part of the official record. The dead line for submission of written comments is today, April 6, 2021. You may submit written comments by emailing rules@ESD.WA.GOV. Comments must be received by the end of the day today to be considered part of this rule making. A final decision regarding a adoption of the proposed rules will be made after all testimony and written comments have been fully considered which will be on or shortly after April 13th, 2021. On behalf of acting commissioner cam my peek, thank you for participating p p p in this hearing. This hearing is adjourned.

ed at 9:44:00 a.m. on April 6th,