

Washington State Update - The WA Cares Fund

Formerly known as the Washington Long-Term Care Trust Act

The passage of the Long-Term Services and Supports Trust Program - effective January 1, 2022 - makes Washington the first state in the nation to create a publicly funded insurance program that will provide working residents of Washington an opportunity to vest into a basic level of LTC benefits. Originally marketed as the Washington Long-Term Care Trust Act, it will now be known publicly as the WA Cares Fund.

The program will be financed by Washington workers who will pay a premium assessment (a tax) through payroll deductions. Of particular interest is a short window of opportunity for employees who own “long-term care insurance” to apply for an exemption from the premium tax. SHB 1323, as amended on April 10, 2021, specifies that employees who apply to opt-out of the Long-Term Services and Supports Trust Program, also known as the WA Cares Fund, must attest to having long-term care insurance prior to November 1, 2021.

Overview

- Beginning January 1, 2022 each W-2 employee will pay a premium tax through payroll deduction.
- An initial premium rate will be 0.58% of the individual’s wages (or \$0.58 for each \$100 earned).
- Wages will be taxed without limitation or a capped amount.
- There is an option for self-employed individuals to elect coverage and be part of the program.
- To qualify for an exemption from the payroll tax, an employee must purchase private long-term care insurance prior to Nov. 1, 2021, apply for the exemption during the limited period from October 1, 2021 through December 31, 2022 - and be approved.
- Benefits for approved long-term care services will become available starting on January 1, 2025.
- Maximum lifetime benefits are \$36,500 per person (adjusted annually) for vested individuals.
- An “eligible beneficiary” of the program is a qualified individual who:
 - is age 18 years or older,
 - meets the requirement for assistance with ADLs, and
 - has not exhausted their lifetime benefits.
- Benefits will not be available to individuals who:
 - have permanently retired, thus are unable to vest into the program.
 - are not residing in Washington state when qualified to receive benefits - even if vested in the program.

Opting out of the program

An employee who attests they have “long-term care insurance” purchased prior to Nov. 1, 2021 has the option to apply for an exemption from the premium tax. Note that once the employee is determined to be exempt, they may not later apply to become a qualified individual or eligible beneficiary, and will be permanently ineligible for coverage under the program.

- The employment security department will accept applications for the exemption **only from October 1, 2021 through December 31, 2022.**
- Employees must be aged 18 and older to apply for the exemption
- The tax is assessed through payroll deduction; therefore, it is the responsibility of the **employee** to provide written notification and a copy of the letter approving their exemption to all current and future employers.

What qualifies as “long-term care insurance” in the state of Washington?

According to rules proposed by the Employment Security Department, an employee who attests to having long-term care insurance “as defined in RCW 48.83.020”, may apply for an exemption. This Code defines “long term care insurance” to generally include (but is not limited to):

- Long-term care riders on annuities and life insurance (which would include linked benefit LTC policies)
- Qualified long-term care insurance contracts
- The long-term care riders or policies purchased under group coverage

Chronic illness riders are not called out in RCW 48.83.020. While it is possible that some chronic illness rider may qualify depending on their structure, further clarification from the state of Washington is clearly needed.

For information regarding potential qualification of insurance company LTC and chronic illness products, please contact the insurance company of issue. Individuals should consult their own legal or tax professional for information regarding potential qualification for the tax exemption.

Nationwide LTC Solutions

RCW 48.83.020 enacted by the Washington State Legislature defines “long-term care insurance” for the State of Washington (not for federal purposes). It is Nationwide’s position that the following Nationwide solutions meet the Washington State definition of long-term care insurance per RCW 48.83.020. This would include but may not be limited to:

- **LTC Rider or LTC Rider II** attached to a Nationwide life insurance policy
- **YourLife CareMatters or Nationwide CareMatters II** policy
- **LTC Rider on a Nationwide survivorship policy.** Please note that for both spouses/partners to be exempt from the premium tax, both individuals must have an LTC rider issued with the policy. If only one spouse/partner has the LTC rider, then only the individual with the LTC Rider will qualify to apply for the exemption.

You may refer to the State of Washington Second Substitute House Bill 1087¹, Substitute Senate Bill 6267², and Substitute House Bill 1323⁴ for additional information. The Washington State Trust Commission is solely responsible for approving exemptions from the 0.58% payroll tax.

Please note that Nationwide does not provide legal, tax advice or specific recommendations on how to qualify or apply for the exemption. Individuals should consult their own legal or tax professional for more information.

¹ <https://app.leg.wa.gov/RCW/default.aspx?cite=48.83.020> Washington State Legislature, Title 48, Chapter 48.3, Section 48.83.020 (5)

² <http://lawfilesexxt.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Passed%20Legislature/1087-S2.PL.pdf>

³ <http://lawfilesexxt.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Passed%20Legislature/6267-S.PL.pdf?q=20200729150140>

⁴ <http://lawfilesexxt.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Passed%20Legislature/1323-S.PL.pdf#page=1>



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