

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 have “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, pay the tax, and be part of the program.
- An employee may apply for an exemption from the payroll tax if they have private long-term care insurance prior to Nov. 1, 2021
- Benefits for state approved long-term care services, paid by direct reimbursement, 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 3 out of 10 ADLs specific to Washington, and
 - has not exhausted their lifetime benefits.
- Benefits will not be available to individuals who:
 - have permanently retired and were unable to vest into the program.
 - are working and paying tax for the program, but have not met either vesting requirement
 - 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 *approved and 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 from employees who can attest to having LTC insurance **prior to Nov. 1, 2021**.
- Applications for the exemption will be taken **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 deductions; therefore, it is the responsibility of the **employee** to provide written notification and a copy of the letter/certificate 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 from the payroll tax. Please refer to <http://www.wacaresfund.wa.gov/private-insurance/> for more information on the definition. 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 includes linked benefit LTC policies
- Qualified long-term care insurance contracts
- The long-term care riders or policies purchased under group coverage

Because qualifying products must be specifically approved as a long-term care insurance, chronic illness riders will not qualify for the opt-out.

Please contact the insurance company of policy issue regarding product qualification for the tax exemption. Individuals should consult their own legal or tax professional for information regarding the tax exemption and how to apply.

Washington approved insurance companies

Washington has provided a list of insurance companies that are approved to sell long-term care insurance in the state of Washington. This list can be found at <https://www.insurance.wa.gov/long-term-care-insurance-companies-approved-sell-washington-state>.

Note that Nationwide is mentioned twice, as our products are issued under two different company names depending on the product being issued.

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). As an approved insurance company of LTC products, 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.

Please note that the chronic illness rider included with some Nationwide policies will not qualify for the Washington tax exemption.

You may refer to the State of Washington Second Substitute House Bill 1087², Substitute Senate Bill 6267³, 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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When choosing a product, make sure that life insurance and long-term care needs are met. Because personal situations may change (i.e., marriage, birth of a child or job promotion), so can life insurance and long-term care insurance needs. Care should be taken to ensure these strategies and products are appropriate. Associated costs, as well as personal and financial objectives, time horizons and risk tolerance should all be weighed before purchasing a product. Life insurance, and long-term care coverage linked to life insurance, has fees and charges associated with it that include: costs of insurance, which vary based on characteristics of the insured such as sex, tobacco use, health and age; and additional charges for riders that customize a policy to fit individual needs.

Federal income tax laws are complex and subject to change. The information in this memorandum is based on current interpretations of the law and is not guaranteed. Neither Nationwide, nor its employees, its agents, brokers or registered representatives gives legal or tax advice.

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LAM-3595AO.5 (07/21)