



*Advanced Markets Blog*

# Washington State Long-Term Care Program

**Information on the WA Cares Fund<sup>SM</sup> and WA Cares (as of March 2022)**

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## **Background**

In 2019, Washington State signed into law the Washington Long-Term Services and Supports Trust Act, the first public, state-level long-term care insurance program of its kind. Now referred to as **The WA Cares Fund<sup>SM</sup>**, it seeks to provide Washington residents with basic, publicly funded long-term care protection.

## **Program implementation has been delayed**

On January 27, Governor Jay Inslee signed two bills modifying the WA Cares program, which included a delay in the implementation of the WA Cares payroll tax until July 1, 2023. The applicable tax collections were set to begin in January 2022 and any premiums collected by employers to be refunded.

The reason for the delay is to address several concerns with the current WA Cares program, including:

- Allowing near retirees the ability to contribute and vest in the program
- Excluding non-WA resident workers from contributing to the program
- Allowing temporary WA workers, veterans with service related disabilities and/or military spouses' the ability to opt out of the program

For more detailed information, please refer to [House Bill 1732](#) and [House Bill 1733](#).





## What's covered?

The WA Cares program will be funded as part of the employee's wages through a payroll deduction. The premium tax assessed is equal to 58 cents per \$100. Once an employee is vested in the program, he or she is entitled to a total lifetime of \$36,500, adjusted for inflation.

An employee is "vested" once he or she has paid premiums for either:

1. The equivalent of 10 years without interruption for five or more consecutive years, OR
2. Three years within the last six years

In its current state, the law further requires that an employee work at least 500 hours during each of the 10 years in the first option—or each of the three years in the second.

For a vested individual to receive benefits under the program, he or she must require assistance with three or more activities of daily living (ADLs).

The law automatically impacts all Washington W-2 employees and covers sole-proprietors, partners, joint ventures and independent contractors who affirmatively elect into the program.

## Opting out of the WA Cares program

An employee who attests they have private qualifying long-term care (LTC) coverage may apply for an exemption and opt out of **The WA Cares Fund<sup>SM</sup>**. The current law states that once an exempt employee opts out, he or she is *permanently ineligible* for benefits provided under the program, and is not required to pay any of the premium tax either.

Under the current law, an employee who attests that they have long-term care insurance may apply for an exemption from the premium assessment under RCW 50B.04.080. An exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title." However, the WA State Employment Security Department may verify an employee's long-term care insurance coverage, request additional information from the employee and may amend the law to require on-going re-attestation that the employee's private LTC coverage is in force, may amend the law to require.

## Deadline for requesting an exemption

To request an exemption from the payroll tax and WA cares program, private long term care insurance must have been purchased prior to **November 1, 2021**. WA residents with qualifying LTC coverage purchased before that day were able to apply for an exemption beginning **October 1, 2021 through December 31, 2022**.

The WA Cares Fund<sup>SM</sup> defines "long-term care insurance" referencing Washington Insurance Code **RCW 48.83.020**. Additionally, they also define "**a qualifying private long-term care insurance plan**".

John Hancock's Long-Term Care (LTC) rider is intended to be a qualified long-term care insurance contract under Internal Revenue Code section 7702B(b) and meets the definition of "long-term care insurance" under RCW 48.83.020.

Washington workers who purchased a John Hancock LTC rider may decide to apply for an exemption from the WA Cares program.

**For more information, questions and to sign up to receive updates about the WA Cares Fund<sup>SM</sup> and WA Cares, please visit [wacaresfund.wa.gov](http://wacaresfund.wa.gov).**



## What isn't covered?

While this program will result in many Washingtonians receiving some assistance with long-term care costs, it's important for individuals to explore how this new law impacts their own planning needs. For example, the program does not cover nonworking spouses. Stay-at-home spouses should consider private long-term care insurance or a life insurance policy with an LTC rider, otherwise they will be required to "self-insure," which could ultimately leave them short of income during retirement. It is also unclear how the program treats "gig economy" workers, i.e., those who switch between W2 and 1099 jobs throughout their lives and may not meet the vesting requirements. Currently, LTC benefits under this program are available only for care provided in Washington for Washington residents and are not transferable. This has been raised as a concern with the existing program as it is problematic for individuals who work in Washington, but live or retire outside the state.

Secondly, while the program may help to offset some of the costs of long-term care, in many cases there are likely to still be significant gaps in coverage. Considering that the average cost of a one-year private nursing home stay is over \$116,000 in Washington State, the \$36,500 benefit is an offset, but likely to be greatly inadequate for an extended long-term care event.

Lastly, for high-income earners, the law does not include a cap on wages subject to this premium tax, which means that a high-income earner could pay premiums in excess of the \$36,500 (adjusted for inflation) lifetime maximum benefit provided by the law. Many WA workers have decided to purchase a life insurance policy with an LTC rider and opt out of the program as the amounts that may be accelerated under the rider are likely to far exceed the lifetime maximum afforded under the WA program, at a much better value.

## Takeaway

Washington's new program is a step towards addressing the long-term care crisis. At best, WA Cares may raise awareness of the issues associated with long-term care, while helping residents to defray some of the costs associated long-term care and delay or avoid residents from tapping into state-funded Medicaid. At worst, residents may misunderstand the limitations on the new law and inadvertently think all their long-term needs will be covered, when in fact the benefit is likely going to cover only a fraction of care costs. It's critical that WA residents discuss the impact of the law with their financial professionals today. Financial professionals should consistently be addressing the issue of long-term care planning as part of the retirement planning process.

On a national level, the WA program seems to be paving the road for other states looking for ways to defray the costs of long-term care, especially as it relates to state-funded Medicaid programs. Currently, at least 10 states are considering similar programs. It's important that clients everywhere understand the true costs of long-term care and what is and isn't covered by Medicare and private health insurance. Now is a key time to educate your clients on their options and help them protect their financial futures.

**For more information, please call Advanced Markets at 888-266-7498,  
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The Long-Term Care (LTC) rider is an accelerated death benefit rider and may not be considered long-term care insurance in some states. There are additional costs associated with this rider. The Maximum Monthly Benefit Amount is \$50,000. When the death benefit is accelerated for long-term care expenses it is reduced dollar for dollar, and the cash value is reduced proportionately. Please go to [www.jhsaleshub.com](http://www.jhsaleshub.com) to verify state availability.

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