

# Self-Funded Employers May Need to Pay Washington State's WAPAL Fee



November 1, 2021

## Quick Facts

- Washington State recently passed legislation requiring health insurance carriers and health plans to pay a quarterly assessment to assist medical providers with managing patients' mental health needs.
- Health insurance carriers will pay on behalf of fully insured plans, but self-funded plans may need to pay the fee themselves.
- Fees will be reported and paid online quarterly.
- The fees are not preempted by Employee Retirement Income Security Act (ERISA).

## Background

The state of Washington has passed legislation requiring health insurance carriers and employers that sponsor self-funded health plans to pay a quarterly assessment to support a state program. The program is called the "State of Washington Partnership Access Lines (WAPAL) Funding Program" or "WAPAL Fund" and assists medical providers with managing patients' mental health needs.

Health insurance carriers will be required to pay the fee for fully insured groups, so no action is necessary by employers sponsoring fully insured plans. Employers that sponsor self-funded plans should check with their third-party administrator (TPA) to determine which party is responsible for paying. Some TPAs pay the fee on behalf of their self-funded clients, but others leave it up to the employer.

## Reporting and Paying the Fee

Self-funded employers with covered members in the state of Washington should go to [WAPAL Fund Website](#) to register. The same site will be used to report enrollment each quarter. After reporting enrollment data, the employer will receive an invoice for the assessment amount of \$0.13 per covered life per month.

The first payment is due on November 15, 2021, for third-quarter 2021 enrollment (July, August and September). Subsequent payments will be due 45 days after the end of each calendar quarter.

Employers subject to ERISA may argue that they are exempt from the fee due to ERISA preemption of state laws, but Washington state law specifically says that the fee applies to any plan that covers employees living in the state of Washington, including self-funded plans sponsored by employers located in other states. Until this law is successfully challenged in court by employers subject to ERISA, it is suggested that any self-funded employer covering employees living in Washington register with the state and begin making the quarterly payment by November 15.

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