

# Washington State LTC Is Now in Effect

August 1, 2023

## Quick Facts

- Originally established in 2021, the Washington Cares Fund provides long-term care for Washington workers.
- Payroll deductions of .58% of wages began July 1, 2023.
- Most employees can no longer apply for a private-plan exemption, although some exceptions are available.
- Workers who contribute the required length of time may apply for benefits starting in July 2026.
- Learn more about the urgency for Long-Term Care (LTC) strategy on **Thursday, August 17** in our next [Benefits Curve: Insights to Action](#) webinar – [register today!](#)

## Background

In 2021, Washington established a long-term care benefit program for Washington workers. This program is called the [Long-Term Services and Supports Trust Program](#), often referred to as the “LTSS Program” or “WA Cares Fund.” Beginning July 1, 2023 (after being pushed back from the original effective date of January 1, 2022), the Employment Security Department (ESD) imposed on each Washington employee a 0.58% payroll tax assessment based on their wages. The premium rate will be reassessed every other year beginning January 1, 2024; but is currently capped at .58%. While employers are not required to contribute to the program, the employer must collect this premium assessment through a payroll deduction and remit the proceeds to ESD. The employer remittance process is similar to the Family and Medical Leave Program.

On January 26, 2022, the Washington legislature passed House Bill 1732 which formally delayed the long-term care tax until July 2023.

Employee payroll deductions began July 1, 2023. For additional information on the Washington Cares Fund, review our previous alerts from [October 2021](#) and at the end of the [May 2023 newsletter](#).

## Payroll Deductions

Workers are considered “employed in Washington” if their services are performed in the state. That includes workers who also perform services outside the state while basing their operations or directing services from a location in Washington. If a worker’s operations are not based in Washington or if the worker directs services from any specific location but resides in Washington, they are also subject to the tax unless:

- The worker is self-employed (i.e., sole proprietor, member of a partnership, member of a limited liability company, independent contractor, or other self-employed status).

- The worker is subject to an existing collective bargaining agreement (CBA) that was in effect on October 19, 2017; or
- The worker opts out of the program.

*NOTE: Once exempted CBA agreements are reopened, renegotiated, or expire, workers to whom the CBA applies will be subject to the program.*

## Private Plan Exemption

There are limited exceptions to participation, including exemptions for those who are self-employed (unless they opt in) or have comparable private long-term care insurance that was purchased before November 1, 2021. Employers cannot apply for an exemption on behalf of employees, even if they offer group long-term care insurance. Only employees can apply for an exemption. Individuals have one opportunity to opt out of the program by having a long-term care insurance policy that was in place by November 1, 2021. The original window to apply for an exemption occurred between October 1, 2021, and December 31, 2022. At this time there are very few opportunities to qualify for an exemption. Note that once someone opts out of State benefits, they cannot opt back into the WA Cares Fund and will be permanently ineligible for State benefits.

As of January 1, 2023, there are additional exemption categories for which workers will be able to apply for if any of the following apply to them:

- They live outside of Washington;
- They are the spouse or registered domestic partner of an active-duty service member of the United States Armed Forces;
- They have non-immigrant work visas; or
- They are veterans with a 70% service-connected disability rating or higher.

If any of the above exemptions apply, the employee may apply for an exemption. If the exemption condition ceases to apply to an employee at any point, they are required to notify their employer and the ESD within 90 days.

It is not an employer's responsibility to apply for their employees' exemptions. An employer's only responsibility would be to, upon notification and receipt of an employee's exemption approval letter from ESD, cease payroll deductions for that employee and keep a copy of the approval letter on file. It will be the employee's responsibility to notify the employer of any changes to their exemption status.

## Washington Cares Benefit

Beginning July 2026, each person who is eligible to receive the benefit can access services and support at a cost of up to \$36,500 (adjusted for inflation) over their lifetime.

People who need long-term services and support may begin [applying for benefits](#) in July 2026. To qualify for benefits, the individual must have met the WA Cares contribution requirements by the time they apply and must also need help with activities of daily living. Applicants must be at least 18 years old and a current resident of Washington to receive long-term care benefits. To meet the benefit requirement individuals must contribute to the fund for at least 10 years. Early access is available to individuals who have contributed to the fund for three out of the last six years and have a sudden need for care.

## Reporting and Penalties

Washington employers will be [required to report](#) employee wages and hours and pay premiums every quarter unless they had no payroll expenses during that quarter. Employers will collect premiums from employees the same way as they do for Paid Leave and will be able to report for both programs at the same time. Employers can find information about their obligations in this online [employer toolkit](#).

Employers that fail to withhold and remit the full amount of payroll taxes when due may be liable for the full tax and interest and may be subject to a penalty.

## Action Steps for Employers

- Deduct Washington Cares Fund payroll tax contributions
- Maintain copies of ESD exemption letters submitted by workers
- Remit quarterly premium payments to the ESD
- Submit quarterly reports to the ESD, which are expected to be consistent with reports employers already provide under the Washington Paid Family and Medical Leave Program
- Inform the ESD immediately upon reopening, renegotiation, or expiration of a CBA that was in effect prior to October 19, 2017

Washington State is the first to enact LTC legislation. There are 15+ states as of the date of this Alert with proposed LTC initiatives in the works. Preparation will be key as we wait for the outcome of the proposed legislation and any tax exemptions granted for having prior LTC coverage. Learn more about the urgency for LTC strategy on **Thursday, August 17** in our next [Benefits Curve: Insights to Action](#) webinar – [register today!](#)

## EPIC Employee Benefits Compliance Services

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