

Compliance Alert – Update to the Washington State Long-Term Care Program

This alert is only for employers with employees in Washington state. The [WA Cares Fund](#) has been paused.

As described in our EBS Compliance Alert in early September, Washington state is implementing a new long-term care benefit program, the WA Cares Fund. The program is intended to be a mandatory, public, state-run long-term care insurance program for Washington workers. Not to be confused with a long-term disability plan or a statutory short-term disability program, the Washington program is the country's first public-operated long-term care insurance program designed to address custodial care costs incurred when an individual needs assistance with activities of daily living such as eating, bathing, and dressing.

The program will be funded by employee payroll deductions. Employers are responsible for collecting and remitting employee premiums and submitting a quarterly report of these premiums to the Washington State Employment Security Department (ESD). The deductions were intended to begin in January 2022.

However, since the details of the program became public, many state constituents voiced concern about problematic program features such as the fact that contributions are mandatory – even from employees who work in Washington but live in neighboring states and therefore cannot receive a benefit -- that older employees must contribute but may never vest for benefits, and that benefits are only available to retirees who remain in Washington state.

As a result of such complaints and that a class action lawsuit was filed against the Fund, a decision has been made to pause implementation so the state legislature can improve the law during the 2022 legislative term. **Until a future announcement is made, employers will not be required to collect the payroll deductions or remit them to the state.** All penalties for non-compliance will also be waived during the pause. In addition to legislative action, Washington is expected to provide more regulatory guidance. At this time, the expectation is the fund will not collect premiums from employers before April 2022 at the earliest.

Action item

Employers with employees in Washington state should NOT begin collecting Washington State long-term care payroll taxes in January and instead should await additional guidance from the State.

If you have any questions, please feel free to contact your EBS representative.

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