

Electronic Alert

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Washington Cares Rolls Out New Exemptions & Clarifies Employers Responsibilities

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Now that the Washington Employment Security Department (“ESD”) has issued final rules for Washington Long-Term Services and Supports Trust Program (“WA Cares”), employers should prepare themselves to administer WA Cares and collect premium payments for this new long-term care insurance benefit from the state. Under WA Cares, participating employees may be eligible for up to \$36,500 in benefits (adjusted annually for inflation) and the premium contribution is 0.58% per paycheck.

Employees must decide for themselves whether they are eligible for an exemption from premium payments, and these new rules clarify that employees must apply for either a permanent or conditional exemption. Employees who already have qualifying long-term care plans before November 1, 2021 must apply for an exemption by December 31, 2022, but employees must wait until January 1, 2023 to apply for the other permanent or conditional exemption. Employees should take these decisions seriously. Any decision about whether to apply for an exemption may have a lifetime impact on eligibility, as the rules only provide for specific circumstances in which exemptions may be claimed or withdrawn.

The new rules clarify that permanent exemptions may be provided to employees who are veterans of the United States military and have a service-connected disability rating by the United States Department of Veterans Affairs of 70% or greater.

Among the key changes to the new rules is that Washington now permits for certain conditional exemptions that employees may apply to after January 1, 2023. Those include:

- A spouse or domestic partner of an active duty service member in the United States armed forces;
- An employee who holds a nonimmigrant visa for temporary workers; or
- An employee with a permanent primary residence outside Washington

Employers should also begin communicating with employees about eligibility for WA Cares. Since the ESD will not likely inform when employees apply for exemptions or no longer qualify for exemptions, employers should be proactive about communicating with employees about premium

payments. Employers should also make clear that employees must inform them and the ESD as required by the rules, when they no longer qualify for an exemption.

Employers should also note that the rules grant the ESD wide-reaching rights to audit employers for compliance, including the ability to use “other data” to determine premiums if the employer does not provide payroll or wage data.

As a reminder, under the new revisions to the program passed earlier this year, contributions to the program will begin July 1, 2023 for employees who have not notified employers that they are exempt, and benefits will become available to employees on July 1, 2026. Self-employed individuals may elect coverage on different timelines.

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