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MAKING SENSE OF WASHINGTON'S NEW LONG-TERM CARE LAW

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In a slow news cycle, the new long-term care (LTC) law in Washington state would have received a little more coverage in 2020. With the world on its ear though, if you missed the news, you're not alone. Passed in May of 2019, the LTC Trust Act mandates a payroll tax for Washington-based employees to pay for LTC expenses.

FUNDING

The tax is scheduled to be .58% of payroll, or 58 cents per $100 of income, so someone making $100,000 per year would pay $580 per year in taxes. This payroll tax starts collecting in January 2022 and is scheduled to be paid entirely by the employee. The employer can elect to pay this tax on behalf of the employee, but unlike FICA and PFML, there is no obligation to pay a portion.

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COVERAGE

In return, people who pay into the system for 10 years and remain in Washington can receive up to $100 per day, up to $36,500 lifetime, in LTC benefits. The coverage is triggered by needing support prescribed by a physician for activities such as bathing, dressing, eating, taking medication, etc. The intent of this coverage is to help with in-home or assisted living expenses associated with being unable to take care of oneself without help.

CURRENT STATUS

The Commission tasked with creating the Act's structure is working on this right now, reviewing assumptions, projecting future costs and exposures, setting up the administration, and enforcement provisions. One of those key provisions is the ability for a grandfathered group of people to opt out of the program.

OPTING OUT

The Act specifically allows individuals to opt out of the program if they are self-employed or have an LTC plan that is equal to or better than the state's policy. For higher wage earners, opting out and purchasing an individual policy will likely make sense. There are three major reasons why:

- The payroll tax could be redeployed to more competitive options in the open market.
- People who don't plan on living in Washington after retirement would not receive the benefit.
- People who plan to retire in less than 10 years would not receive the benefit.

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DIFFERENT APPROACHES

There are a couple of different positions employers can take:

1. Do nothing. The Act does not have any requirement for employers other than to deduct and remit the payroll tax.
2. Inform employees about the Act and the impact on their paycheck.
3. Assist employees with evaluating and selecting personal plans so they can opt out.
4. Provide LTC coverage to employees that is equal to or better than the state plan.

Employers have a major challenge to provide true group LTC, as that market retracted heavily in the 1990s and has not returned. With that in mind, the general decision employers have to make is whether to educate their employees and help with the analysis on this or not. If you have high-value employees who are experts in their field but not in LTC, dedicating an individual or team to review options makes sense. Assigning a team to make a plan, presenting the findings to those high-value employees, and creating a simplified process for working that plan would create goodwill with those employees, save their time and energy, and yield more consistent results.

The Act is expected to be finalized soon, and the deadline for having a plan in place to opt out may come shortly after. Organizations should start looking into strategies for putting an LTC plan into place sooner rather than later, so you can be ready.

Parker, Smith & Feek will provide further updates on this law as it evolves – reach out to our Benefits Department if you have questions or would like to learn more.