

# EMPLOYEE BENEFITS COMPLIANCE UPDATE

A Parker, Smith & Feek Benefit Alert

APRIL 2023

## Reminder - Washington's Upcoming LTC Tax with Deductions Effective July 1, 2023

We have had several inquiries about the status of the Washington Cares Act and the supporting payroll tax. As opposed to many rumors, the program is still active, and the first payroll tax deduction will be July 1, 2023. The deadline for acquiring an exemption based upon private insurance was December 31, 2022. It is the employee's responsibility to provide their letter to their employer.

Some additional exemptions were added in 2022 and may be found here: [wacaresfund.wa.gov/employers](http://wacaresfund.wa.gov/employers).

Your employees with private long term care insurance dated prior to November 1, 2021 should have their exemption letters.

If your employees need assistance in locating their exemption letter, you may direct them with the following message:

- + You will find a copy of your exemption letter by logging in to Secure Access Washington (SAW) at [secureaccess.wa.gov](http://secureaccess.wa.gov)
- + Access the Paid Family and Medical Leave service to get to your WA Cares Exemption account
- + You will be able to find a digital copy of your letter only if you opted out

If you still need more assistance in finding your exemption letter, please contact the Washington State Employment Security Department (ESD) at (833) 717-2273 or email them at [esdgpwacaresexemptions@esd.wa.gov](mailto:esdgpwacaresexemptions@esd.wa.gov).

Please note that the state's website is still a little bare with specific guidance on their requirement/frequency in which employees need to re-affirm/provide proof of exemption status to their employer but as it stands today, employers were instructed to simply hold onto any exemption letters they had. There is no requirement for employees to resubmit their exemption letter to the employer (assuming they're still with the same employer and still hold their same exemption status). And furthermore, ESD will not issue new exemption letters if one has already been granted.

### ABOUT PARKER, SMITH & FEEK

Parker, Smith & Feek is an independent, associate-owned brokerage firm driven by client service. We offer a range of services including commercial insurance, risk management, surety, benefits, and personal insurance solutions. PS&F is an innovative industry leader and in conjunction with our IMA network of companies we rank in the top 25 insurance brokerage firms in the United States.

### LEARN MORE

[Our Industries](#)

[Employee Benefits](#)

[Wellness & Population Health](#)

[Webinars](#)

### CONTACT US

[Email](#)

Tel: 800.457.0220

### FOLLOW US

*continued >*

With that said, if an employee purchased a qualified private LTC plan that was approved by the state, and they received their exemption letter but since terminated their coverage, they technically are no longer eligible to be exempt from the tax (they no longer hold active, private LTC insurance).

The onus is ultimately on the employee to provide the exemption letters to HR and maintain that coverage in order to be removed from the tax deduction starting in July. If an employee's exemption status has since changed, they are required to notify the employer within 90 days of no longer qualifying. Furthermore, failure to notify ESD and the employer within 90 days will result in the payment of any unpaid premiums with interest at a rate of 1% per month to ESD.

Even though it is the employee's responsibility, it would be best practices for an employer to reach out to employees again for a copy of the letter and verification of their exemption status before the tax deductions start, and/or provide the potential consequences if their exemption has since changed. To be exempt from the tax, the employee needs/needed to keep the policy active. It would be in the employee's best interest to verify their exemption status. If they no longer hold an active LTC policy and have not been paying their portion of the tax, they will not qualify for the benefit and will have to backpay + interest to ESD.

Finally, our team has pulled some useful FAQs from the WA Cares Fund website that address the employer obligation with exemptions.

Specifically highlighting certain pertinent sections in yellow.

## TRACKING EMPLOYEE EXEMPTIONS

Some of your employees may choose to apply for an exemption from the WA Cares Fund. **It's the employee's responsibility to apply and – if approved – to notify you**

**(their employer) and provide you with a copy of their approval letter from ESD.** Once approved, private long term care insurance and service-connected disability exemptions are permanent. Employees cannot opt back in.

Other exemption categories are conditional upon the employee continuing to meet the requirements of the exemption. **It is the employee's responsibility to notify their employer of any changes to their exemption status and failure to do so can result in required back-payment of premiums and additional penalties.**

Once notified of an employee's exemption, employers must:

- + Keep a copy of the employee's approval letter on file.
- + Not deduct WA Cares premiums from exempt workers.

Please note: Approval letters provided by ESD will list an effective date. Exemptions will become effective the following quarter that an employee receives an exemption.

### What do I do if I no longer qualify for one of above exemptions?

Your exemption will be discontinued when you no longer qualify for an exemption, and you will begin paying premiums and earning coverage for WA Cares Fund. You will be required to notify the Employment Security Department and your employer within 90 days of no longer qualifying. Failure to notify the Employment Security Department and your employer within 90 days will result in the payment of any unpaid premiums with interest at the rate of 1% per month to the Employment Security Department.

### How do I know if my employees have approved exemptions?

**It is the employee's responsibility to notify and give you a copy of their approval letter from ESD,** which contains the date their exemption goes into effect. Once you are provided the letter and the effective date has passed, you must stop withholding premiums. Employers must

*continued >*

return incorrectly withheld premiums to the employee.

## FAQ — PRIVATE INSURANCE OPT-OUT

### Can I still apply for a private LTC insurance exemption?

No. Those who had private long-term care insurance on or before Nov. 1, 2021, were able to apply for an exemption from the WA Cares Fund from Oct. 1, 2021, until Dec. 31, 2022. This opt-out provision is no longer available.

### Can I cancel my private LTC insurance since the program was delayed?

The legislative changes delayed parts of the WA Cares implementation by 18 months but the requirements and deadlines for this type of exemption didn't change. If you already have an approved exemption, it's up to you to decide to maintain or cancel your private long-term care policy. You should speak with your broker or agent who sold you the policy about options.

### Can I get a refund for the private LTC insurance policy I purchased?

Purchasing a private policy to qualify for a WA Cares exemption was a voluntary decision by individuals wishing to opt out of the program. If individuals have already received an approval letter from ESD exempting them from the WA Cares program, their exemption is still approved and will still be effective once premium assessment begins on July 1, 2023.

The laws passed in 2022 did not change the requirements for private long-term care insurance and exemption status in RCW 50B.04.085. It is up to individuals to decide whether they wish to maintain or cancel their private long-term care policies. The laws also did not provide for reimbursement of the cost of long-term care insurance voluntarily obtained by individuals.

It is our hope that you found this reminder helpful, any questions please ask.

*As always, should you have any questions, please contact your [Parker, Smith & Feek Benefits Team](#). While every effort has been taken in compiling this information to ensure that its contents are totally accurate, neither the publisher nor the author can accept liability for any inaccuracies or changed circumstances of any information herein or for the consequences of any reliance placed upon it.*