Advanced Markets Blog

State-funded long-term care — is it enough?

Important April 2021 update

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In 2019, Washington State signed into law the Long-Term Care Trust Act, the first public, state-level long-term care insurance program of its kind. The Act seeks to provide Washington workers with basic, publicly funded long-term care protection. This program underscores the significant impact that long-term care costs have on a state's budget and reflects the importance of identifying options for how to pay these costs.

With a vast majority of Americans woefully uninsured or underinsured for long-term care needs, the Act is a step towards addressing this serious issue. But, is it enough for all Washington residents? Let's consider what we know, how it impacts high-income workers in Washington and the importance of long-term care planning on a national level.

What's covered?

The program is funded as part of the employee's wages through a payroll deduction. The premium tax assessed is equal to 58 cents per $100. Once an employee is vested in the program, he or she is entitled to a total lifetime of $36,500, adjusted for inflation.

An employee is "vested" once he or she has paid premiums for either:

1. The equivalent of 10 years without interruption for five or more consecutive years, OR

2. Three years within the last six years

The law further requires that an employee works at least 500 hours during each of the 10 years in the first option —or each of the three years in the second.

For a vested individual to receive benefits under the program, he or she must require assistance with three or more activities of daily living (ADLs).

The law automatically impacts all Washington W-2 employees and covers sole-proprietors, partners, joint ventures and independent contractors who affirmatively elect into the program.

Exemption from requirements

An employee who attests they have long-term care (LTC) coverage may apply for an exemption and opt out of the program. Once an exempt employee opts out of coverage, he or she is ***permanently ineligible*** for coverage under the program, but is not required to pay any of the premium tax either. WA residents should note that the ability to opt out is highly restrictive.

Additional legislation clarifies the ability for individuals with existing long-term care insurance to opt-out of the premium assessment. Sec. 7 of the **Substitute Senate Bill 6267** states "An employee who attests that the employee has long-term care insurance may apply for an exemption from the premium assessment under RCW 50B.04.080. An exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title." The WA State Employment Security Department may verify an employee's long-term care insurance coverage and may request additional information from the employee.

While long-term care insurance remains undefined for purposes of this Act, John Hancock's Long-Term Care Acceleration rider is included in the definition of "Long-term care insurance" in **Washington's Insurance Code** WA ST §48.83.020. Washington workers who have the LTC rider, may decide to opt out of the program by attesting they have existing long-term care insurance.

Update

Exemption purchase deadline is November 2021

An April of 2021 amendment limits the private long-term care policy exemption purchase deadline to November 1, 2021. WA residents with existing LTC coverage purchased before that date may file for an exemption between 10/1/2021 and 12/31/2022. The attestation form is currently being developed and will be available later this year.

What isn't covered?

While this program will result in many Washingtonians receiving some assistance with long-term care costs, it's important for individuals to explore how this new law impacts their own planning needs. For example, the program does not cover nonworking spouses. Stay-at-home spouses should consider private long-term care insurance or a life insurance policy with an LTC rider, otherwise they will be required to "self-insure," which could ultimately leave them short of income during retirement. It is also unclear how the program treats "gig economy" workers, i.e., those who switch between W2 and 1099 jobs throughout their lives and may not meet the vesting requirements. Moreover, LTC benefits under this program are available only for care provided in Washington for Washington residents and are not transferable, which may be problematic for individuals who work in Washington, but live or retire outside the state.

Secondly, while the program many help to offset some of the costs of long-term care, in many cases there are likely to still be significant gaps in coverage. Considering that the average cost of a one-year private nursing home stay is over $116,000 in Washington State, the $36,500 benefit is an offset, but likely to be greatly inadequate for an extended long-term care event.

Lastly, for high-income earners, the law does not include a cap on wages subject to this premium tax, which means that a high-income earner could pay premiums in excess of the $36,500 (adjusted for inflation) lifetime maximum benefit provided by the law. For these individuals, purchasing a life insurance policy with an LTC rider and opting out of the program may be advisable as the amounts that may be accelerated under the rider are likely to far exceed the lifetime maximum afforded under the WA program, at a much better value.

Example: Steve is a 45-year-old WA resident (male, Preferred Non-Smoker). As an Executive at a Seattle-based software company, he earns $500k annually. After the WA Long-Term Care Trust Act goes into effect, he will pay a premium tax into the program equal to 58 cents per $100, or $2,900 annually. Assuming Steve retires at age 65, he will have contributed $58,000 into the program, to potentially receive a maximum of $36,500 (adjusted for inflation).

Alternatively, Steve may consider opting out of the WA state program and instead purchase a John Hancock Protection UL '19 (Vitality PLUS Bronze assumed) life insurance policy with a 4% LTC rider. Assuming Steve contributed that same $2,900 for 20 years into the insurance policy, he would have an initial death benefit of $258,517 (100% available for LTC expenses) and the ability to accelerate up to $10,341 **per month** for long-term care expenses. If Steve ends up not needing long-term care, the potential cash value can be used for tax-free supplemental income and/or the income tax free death benefit would be available for other protection needs and legacy-planning goals.

This is a supplemental illustration. Not all benefits and values are guaranteed. The assumptions on which the non-guaranteed elements are based are subject to change by the insurer. Actual results may be more or less favorable.

Takeaway

Washington's new program is a groundbreaking step towards addressing the long-term care crisis. At best, the program may raise awareness of the issues associated with long-term care, while helping residents to defray some of the costs associated long-term care and delay or avoid residents from tapping into state-funded Medicaid. At worst, residents may misunderstand the limitations on the new law and inadvertently think all their long-term needs will be covered, when in fact the benefit is likely going to cover only a fraction of care costs. It's critical that WA residents discuss the impact of the law with their financial professionals today. Residents must be aware of their options now and planners should be proactively addressing the issue of long-term care planning, particularly as the window to opt-out of the program is very limited. For many residents, especially high-income earners, purchasing a life insurance policy with the LTC rider may provide much more extensive coverage at a more reasonable cost.

On a national level, the WA program may pave the road for other states looking for ways to defray the costs of long-term care, especially as it relates to state-funded Medicaid programs. It's important that clients everywhere understand the true costs of long-term care and what is and isn't covered by Medicare and private health insurance. Now is a key time to educate your clients on their options and help them protect their financial futures.

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