WASHINGTON POLICY CENTER

LEGISLATIVE MEMO

Initiative 2124 asks voters to make WA Cares an opt-in, rather than mandatory, program

By Elizabeth Hovde, Director, Center for Worker Rights
and Center for Health Care

February 2024

Key findings

1. **WA Cares is a state-imposed program for long-term care (LTC), created in 2019 by HB 1087.[1]**
2. **The program is funded by a significant payroll tax of 58 cents on every $100 of income a Washington state worker earns, regardless of income.**
3. **A lifetime benefit of up to $36,500 will eventually go to some Washingtonians, if they meet certain health criteria, if they still live in the state and if they have paid the payroll tax for a required number of years.**
4. **This dollar amount is not typically enough to cover a person's LTC costs, should they need services.**
5. **Even with its high payroll tax, WA Cares has solvency concerns.**
6. **When a temporary and limited opt-out choice was available, nearly 500,000 workers left the program.**
7. **Initiative 2124 would give workers a choice about whether this program is right for their individual financial and possible health needs. It would make WA Cares a voluntary, rather than mandatory, program.[2]**

Introduction and background

In 2019, Washington state lawmakers passed, and the governor signed, HB 1087. It required the creation of a mandatory social program and the collection of another payroll tax from W2 workers, although only some workers would eventually benefit.

Tax collection for the program, called WA Cares, began in July 2023 after an 18-month delay, the halting of private, long-term-care insurance sales, unpredictable changes in the law (due to several shortcomings), and after nearly 500,000 workers left the program under a limited exemption. The state's Long-Term Services and Supports (LTSS) Commission continues to make recommendations to the Legislature for WA Cares. The commission reports problems with program solvency and is recommending stricter eligibility for Washington workers as it cleans up other problems with WA Cares, striving for cost-neutral solutions.

The payroll tax for WA Cares is not insignificant. It takes 58 cents from every $100 a worker earns, regardless of income or the number of hours he or she works. Some workers will never benefit from the fund. If an individual does meet certain health criteria, still lives in the state and has paid the payroll tax for the required number of years, he or she is supposed to recieve up to $36,500 that can go toward state-approved long-term-care services. This amount is not typically enough to cover most people's long-term-care costs and in many cases would only provide about three months of care.

WA Cares has solvency problems. Early on, after voters said "no" to changes in how fund dollars could be invested, State Actuary Matt Smith told a reporter of the solvency problems, "Put another way, in today's dollars, the program is expected to require an additional $15 billion of revenue to cover the next 75 years of benefits and expenses."[3]

The latest 2022 actuarial study found that WA Cares would remain solvent under some scenarios, but that under other scenarios it

1 House Bill 1087, https://app.leg.wa.gov/billsummary?BillNumber=1087&Year=2019

2 Initiative 2124, https://letsgowashington.com/i-2124/

3 "WA voters said 'no.' Now there's a $15 billion problem," Austin Jenkins, KUOW, Dec. 3, 2020: https://www.kuow.org/stories/wa-voters-said-no-now-there-s-a-15-billion-problem

washingtonpolicy.org
(206) 937-9691

wouldn't. Information reported on the WA Cares website confirms this conclusion.[4]

Even if the WA Cares Fund stays solvent or is made to achieve solvency with legislative changes that increase the payroll tax rate, change the program's eligibility requirements or decrease the program's lifetime benefit, many workers paying in will still never see a return on the taxes they are being forced to pay.

This includes people who will never use long-term care, workers who move out of the state, workers who don't meet the state's strict health or vestment eligibility criteria, and workers who don't work the required number of hours in a year for the required number of years. The benefit amount must also be used on costs for which the state approves. Not all services or caregivers that a person chooses will be approved by state regulators.

From the outset, the program bars some workers from ever receiving a WA Cares benefit, even though they pay the payroll tax on their earnings. They include H2A and other workers on non-immigrant visas, military spouses, and workers who reside in another state. These workers have been given the option to apply for exemptions. Some have, adding to different solvency projections. These workers were and are not automatically exempted, as of January 2024.

Even with no guarantee of a benefit or what exactly will qualify for a state payment, the state is telling Washingtonians to have "peace of mind" about long-term-care needs because the WA Cares program exists. Being forced to pay into an unpopular program from which one may never benefit, however, does not contribute to "peace of mind."

Lawmakers pursued this program to shift some of the state's costs related to long-term-care payouts through Medicaid onto workers. The state's safety net is growing in a graying population.

Outcry from state residents did not stop WA Cares before the tax collection begain in July 2023. Legislation filed to repeal the long-term-care law also went ignored, as did legislative efforts to make participation in WA Cares optional.

4 2022 WA Cares Fund actuarial study: https://wacaresfund.wa.gov/sites/default/files/2023-04/11-10-2022%20LTSS%20Trust%20Commission_Milliman%20Final%20Report%20on%20New%20Baseline.pdf

Initiative 2124

In December 2023, a citizen group called Let's Go Washington collected enough signatures to submit Initiative 2124 to the Legislature. It was certified by Washington's Secretary of State Steve Hobbs on January 25, 2024. It would make WA Cares an opt-in, rather than mandatory, program.

In considering Initiative 2124, lawmakers could choose to adopt it into law, offer voters an alternative that would appear on the November 5, 2024, general election ballot with the original initiative, or they could ignore the initiative, in which case Initiative 2124 would appear on the ballot without a legislative alternative.

Initiative 2124 would do what state leaders chose not to do: Give workers a choice about whether this program is right for their individual financial and potential long-term care needs. Those who see the program as useful to them could elect to keep participating in WA Cares.

The key change to HB 1087 proposed by the initiative says: "An employee or self-employed person in Washington must elect to keep coverage under this Chapter. If an employee or self-employed person has elected coverage under this Chapter, the employee or self-employed person must also have the option to opt out at any time. The employment security department shall adopt rules to implement this section."

Aside from making participation in WA Cares voluntary, other parts of the program, such as tax rates, eligibility requirements and benefit levels, would stay the same. Lawmakers, of course, could alter the program. They have done so several times since the 2019 LTC law was passed.

Policy analysis

Since lawmakers are not discussing repeal of the unpopular long-term-care law — even after many flaws have been exposed — Initiative 2124 would allow workers to choose whether to participate in WA Cares based on their individual financial needs and health preferences. It would allow lawmakers to show respect for worker choices and make it more possible for workers to meet the life needs they do have, rather than pay a tax for a benefit they might not want, need or use. It also would allow workers more options regarding the care services they choose, if they do end up needing long-term care.

The payroll tax this initiative would make optional is especially harmful to low-income workers. In many cases, they will pay the tax over their working lives and then watch their money benefit people who are wealthier than they are.

Conclusion — practical reforms and solutions

Whether or not voters end up passing this initiative, the state should continue to promote individual planning for the possible need. The controversy over WA Cares prompted many people to start thinking about long-term care. State lawmakers can engage in conversation about long-term-care planning without imposing a mandatory savings plan on workers for one life need.

Lawmakers also should enact reforms that will create a healthy, price-competitive insurance market that benefits everyone. Ending taxes on insurance products is one specific thing lawmakers can do, making it more affordable to purchase private long-term-care insurance.

Most of all, lawmakers should seek to limit Medicaid abuse. Medicaid is a safety net for people in need. It is not long-term-care insurance, and it shouldn't be used as such.

Research shows that long-term care is more manageable than the state is suggesting, with many older adults being able to finance a substantial amount of paid home care out of pocket. Creating a safety net for people who are not in need is hurtful and cruel when it takes income from workers who are trying to make ends meet.

Evidence shows that people have substantial savings and assets that could be used for long-term care, if required to, instead of relying on other taxpayers. It is time for lawmakers to restore reasonable expectations surrounding how individuals pay for long-term care and let people make their own life plans in a broad, price-competitive insurance market.

Elizabeth Hovde is the Director of the Center for Worker Rights and Center for Health Care.

Published by Washington Policy Center