

Washington's Long-Term Cares Fund on Hold

By Craig A. Day &

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Washington Governor Jay Inslee has announced a pause in implementation of the Long-Term Services and Supports Act to give the state legislature time to refine the law.

The Act, a first-of-its-kind law, provides Washington workers with long-term care benefits (called the Washington Cares Fund) and is funded by a payroll tax (beginning January 1, 2022) on Washington workers. The announcement comes just weeks before employers were to begin withholding a 0.58 percent payroll tax from Washington workers' paychecks to fund the long-term care benefit.

Several provisions of the new law are controversial. For example, employees nearing retirement age might never work long enough to qualify for the benefit and the benefit is not available to former Washington employees living out-of-state. Governor Inslee previously announced he was willing to delay implementation of the law if the legislature would present him with a bill to sign. Since the deadline is fast approaching and no bill has been forthcoming, Governor Inslee decided to exercise his authority to instruct the Employment Security Department not to collect any premiums from employers before premiums become due in April. The pause in collections, according to Governor Inslee, will give the legislature time to make the necessary refinements.

Governor Inslee said the reforms also might include a requirement that employees who opt out of the program maintain their private insurance policies. As written, the law appeared to permit employees who opt out to terminate their private coverage once they received an exemption from the state.

The latest announcement also provides that employers will not be subject to penalties and interest for not withholding payroll taxes from employees' wages while legislation is under consideration to pause the withholding.

The announcement stops short of directing employers not to withhold the taxes from their employees' paychecks beginning on January 1, 2022, but "strongly encourages" employers to do so. Considering this strong encouragement and the waiver of any penalties and interest, employers with Washington workers may wish to not begin collecting premiums on January 1 while awaiting an apparently imminent reform bill, as there could be risks to doing so.

For additional guidance on this issue, please contact a Jackson Lewis attorney.

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