

POLICY BRIEF

Citizens' Guide to Initiative 2124

to amend state law, making participation in WA Cares optional

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

September 2024

Key Findings

1. WA Cares is a state-imposed program that promises to help cover long-term care (LTC) for workers in Washington state, created in 2019 by House Bill (HB) 1087.
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 level. It is mandatory for most W2 employees.
3. A lifetime benefit of up to \$36,500 could go to Washingtonians who pay into WA Cares, if they meet certain health criteria and if they have paid the payroll tax for a required number of years — typically 10 years without a break of five or more years.
4. This lifetime benefit 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 the choice to opt out was temporarily available to those who had or obtained private long-term-care insurance (LTCI), nearly 500,000 workers left the program.
7. Initiative 2124 would give all workers a choice about whether this program is right for their individual financial and possible health needs, making WA Cares a voluntary, rather than mandatory, program and protecting workers' wages.



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Introduction and background

In 2019, Washington state lawmakers passed, and the governor signed, HB 1087.¹ 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,² began in July 2023 after an 18-month delay. The delay was related to several factors, including nearly 500,000 workers leaving the program under a limited exemption, the temporary halting of private, long-term-care insurance sales in the state and legislative changes in the law due to its many shortcomings.³

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 requirements and has paid the payroll tax for a required number of years, he or she is eligible to receive 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.⁴

WA Cares already has solvency problems.⁵ 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

1 An act concerning long-term services and supports, House Bill 1087. (2019).

2 Washington Cares Fund website (2024). <https://wacaresfund.wa.gov/>.

3 Washington State Standard. (2024). WA decides: Initiative 2124 to make the state's long-term care program optional. Demkovich, L. <https://washingtonstatestandard.com/2024/05/07/wa-decides-initiative-2124-to-make-the-states-long-term-care-program-optional/#:~:text=People%20with%20qualifying%20private%20long,to%20an%20October%202022%20report>.

4 Genworth, Cost of Care Survey. (2024). <https://www.genworth.com/aging-and-you/finances/cost-of-care>.

5 Hovde, E (2022, Nov. 1). WA Cares suddenly solvent? Hopefully, but it depends — and the long-term-care law still isn't good. Washington Policy Center. <https://www.washingtonpolicy.org/publications/detail/wa-cares-suddenly-solvent-hopefully-but-it-depends-and-the-long-term-care-law-still-isnt-good>.

is expected to require an additional \$15 billion of revenue to cover the next 75 years of benefits and expenses.^{6 7}

An actuarial study in 2022 found that WA Cares would remain solvent at its current rate under some scenarios, but that under other scenarios it wouldn't.⁸ Various factors could result in a need for a higher tax rate or lower benefit, including workers' wages and employment numbers, use of the benefit, higher mortality improvement, lower fertility rates, investment income and if the benefit rises with inflation. Information reported on the WA Cares website confirms this conclusion.⁹

In part because of solvency concerns, the state's Long-Term Services and Supports (LTSS) Trust Commission continues recommending changes for WA Cares to lawmakers.^{10 11} The commission discusses potential problems with program solvency and has considered recommending stricter eligibility for Washington state workers. Another recommendation is to require people who opted out of WA Cares because they had LTCI to show they still have it. The commission has also discussed increasing the payroll tax for WA Cares to keep the fund solvent over time.

Even if the WA Cares Fund stays solvent or is made solvent by changing various eligibility terms or the tax rate, many workers will still never see a return on the taxes they are being forced to pay. This includes people who will never need long-term care and workers who don't meet the state's health care criterion. It also includes workers who do not meet difficult vestment eligibility. Workers must pay the payroll tax for 10 years without a break of five or more years and meet a required number of hours in each year of eligibility. This is especially hard on family caregivers, single parents and others who shift in and out of the formal workforce.

From the outset, the program bars some workers from ever receiving a WA Cares benefit, even though they pay the payroll tax.¹² These workers include H2A and other workers on non-immigrant visas and Washington state workers who reside in another state. In addition to veterans with a 70% service-connected disability and some military spouses, these workers have been given the option to

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- 6 KUOW. (2020). WA voters said 'no.' Now there's a \$15 billion problem. Jenkins, A. <https://www.kuow.org/stories/wa-voters-said-no-now-there-s-a-15-billion-problem>.
 - 7 Ballotpedia. (2020). Senate Joint Resolution 8212, Authorize Fund Investment of Long-Term Service and Supports Trust Account Amendment. [https://ballotpedia.org/Washington_Senate_Joint_Resolution_8212_Authorize_Fund_Investment_of_Long-Term_Services_and_Supports_Trust_Account_Amendment_\(2020\)](https://ballotpedia.org/Washington_Senate_Joint_Resolution_8212_Authorize_Fund_Investment_of_Long-Term_Services_and_Supports_Trust_Account_Amendment_(2020)).
 - 8 Milliman report, 2022 WA Cares Fund Actuarial Study. (2022). https://wacaresfund.wa.gov/sites/default/files/2023-04/11-10-2022%20LTSS%20Trust%20Commission_Milliman%20Final%20Report%20on%20New%20Baseline.pdf
 - 9 Washington Cares Fund website (2024). <https://wacaresfund.wa.gov/>.
 - 10 Washington State Department of Social and Health Services, Long-Term Services and Supports Trust. (2024). Retrieved from <https://www.dshs.wa.gov/altsa/stakeholders/long-term-services-and-supports-ltss-trust>.
 - 11 LTSS Trust Commission Recommendations Report. (2024). <https://wacaresfund.wa.gov/sites/default/files/2024-01/2024%20LTSS%20Trust%20Commission%20Recommendations%20Report.pdf>.
 - 12 WA Cares Fund website, Exemptions. (2024). <https://wacaresfund.wa.gov/how-it-works/exemptions>.

apply for voluntary exemptions. Some who know about their ability to do so have, adding to more solvency concerns. Workers who meet exemption criteria are not automatically exempted by the state. Like workers before them who opted out of WA Cares because they had private long-term-care insurance, they must seek their exemptions.

Benefits that will eventually go to some recipients will only be able to be used on services that have state approval. Rules are still being made. Not all services or caregivers a person chooses will be approved.

Even with no guarantee of a benefit or what exact services and caregivers will qualify, the state is telling Washingtonians to have “peace of mind” about long-term-care needs because the WA Cares program exists. The program has a strong marketing campaign in place.¹³ 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 (also called Apple Health) onto workers. This state safety net’s burden is growing, along with the state’s graying population. Policies continue to allow middle- and upper-class people to take advantage of taxpayer dollars that are meant for people in need.

Outcry from state residents did not stop WA Cares before the tax collection began 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.

Initiative 2124

In December 2023, a citizen group called Let’s Go Washington collected enough signatures to submit Initiative 2124 to the Legislature.¹⁴ It was certified by Washington’s Secretary of State Steve Hobbs on January 25, 2024.¹⁵

The initiative would make WA Cares a voluntary, rather than mandatory, program.¹⁶ In considering I-2124, lawmakers could have chosen to adopt it into law, offered voters an alternative that would appear on the Nov. 5, 2024, general election ballot along with the original initiative, or ignore the initiative, in which case I-2124 would appear on the ballot without a legislative alternative. Lawmakers chose to let the initiative appear on the ballot without a proposed 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.

13 New, E (2024, April 25). Promoting WA Cares is unnecessary, questionable. Washington Policy Center. <https://www.washingtonpolicy.org/publications/detail/promoting-wa-cares-is-unnecessary-questionable>.

14 Let’s Go Washington. (2024). <https://letsgowashington.com/>.

15 Let’s Go Washington, Initiative No. 2124. (2024). <https://letsgowashington.com/i-2124/>.

16 Ballotpedia. (2024). Washington Initiative 2124, Opt-Out of Long-Term Services Insurance Program Initiative. [https://ballotpedia.org/Washington_Initiative_2124,_Opt-Out_of_Long-Term_Services_Insurance_Program_Initiative_\(2024\)](https://ballotpedia.org/Washington_Initiative_2124,_Opt-Out_of_Long-Term_Services_Insurance_Program_Initiative_(2024)).

The key change 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.

Would I-2124 kill WA Cares?

Supporters of WA Cares say the initiative will be the end of the program. If I-2124 passes and enough workers choose not to participate in WA Cares, lawmakers might abandon HB 1087 entirely, given even more solvency concerns with the program.

In a fiscal impact statement for the initiative, the Washington state Office of Financial Management reports, “An analysis by the Office of the State Actuary indicates that if rates of non-participation are high enough, the Long-Term Services and Supports Trust Account could become insolvent as early as state fiscal year 2027.”¹⁷

Experts consulting lawmakers about WA Cares’ viability say that the program will be in a death spiral if the program is made voluntary.

Repealing HB 1087 and ending WA Cares would save taxpayers not only individual wages that are taken for the program, but millions of dollars appropriated each year for WA Cares’ administrative costs.

Policy analysis

Proponents of Initiative 2124 point out it would allow workers to opt out of a payroll tax that is especially harmful to low-income workers. In many cases, low-income workers will pay the tax during their working years and then watch their money benefit people who are wealthier than they are.

Allowing working Washingtonians to opt out of WA Cares would enable people to keep more of their wages to meet current needs rather than pay a tax for a benefit they might not want, need or use. It also would provide workers with more options regarding the care services they choose, if they do end up needing long-term care someday.

17 Washington State Office of Financial Management. (2024). Fiscal Impact Statement for Initiative 2124. <https://ofm.wa.gov/sites/default/files/public/budget/ballot/2024/Initiative2124-Fiscal-Impact-Statement-OFM.pdf>

Conclusion — practical reforms and solutions

The passage of Initiative 2124 should motivate the Legislature to repeal HB 1087. This will end a withdrawal from workers' wages for WA Cares and save the state millions in administrative costs.

But whether or not voters pass the initiative, the state can and should continue to promote individual planning for long-term care. The controversy over WA Cares prompted many people to start thinking about long-term care. Many bought private long-term-care insurance. Others are choosing alternate savings and investment plans. State lawmakers can take part in these discussions and help voters understand without imposing a mandatory savings plan on workers.

Lawmakers 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.¹⁸

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. Many older adults can afford a substantial amount of paid home care out of pocket.¹⁹ People can use their savings and assets, instead of relying on other taxpayers who have their own needs. It's unfair to ask taxpayers who are trying to make ends meet to create a safety net for people who do not need it.

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.

18 The Seattle Times. (2024). WA Cares is not the solution for the state's graying population. Hovde, E. <https://www.seattletimes.com/opinion/wa-cares-is-not-the-solution-for-the-states-graying-population/>.

19 The Washington Times. (2023). Government must encourage personal responsibility, prohibit easy access to Medicaid. Moses, S. Blase, B. <https://www.washingtontimes.com/news/2023/nov/30/government-must-encourage-personal-responsibility-/>.

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Elizabeth also has taught journalism, as an adjunct professor at Washington State University Vancouver.

Over the years, her volunteerism has included prison outreach, helping in public schools, writing for her neighborhood association and participating in area cleanups. She lives in Vancouver, Washington.