Employer Q&A for LTSS / WA Cares

February 10, 2022

On January 27, Governor Inslee signed two bills passed by the Legislature making key improvements to WA Cares Fund. These reforms will address coverage gaps and delay program implementation by 18 months. Changes include:

• Workers near retirement (born before 1968) will be able to qualify for partial benefits on a pro-rated basis.

• Workers who live out of state and work in Washington, military spouses, workers on non-immigrant visas, and certain veterans with disabilities will be able to opt out of the program if they choose.

• Workers will begin contributing to the fund in July 2023. Employers will refund any premiums collected in 2022 so far.

The WA Cares Fund website is being updated to reflect these changes and you can join their mailing list to get notifications as more information becomes available. For details on the changes, you can read Substitute House Bill 1732 and Engrossed Substitute House Bill 1733.

ESD has updated instructions for employers and will be providing additional information and guidance in February. Sign up for ESD's employer newsletter to receive updates.

The below information was accurate as of January 26, 2022. OFM will provide updated information as new rules and guidance are made available from the program.

1. What is Long Term Services and Supports / WA Cares Fund?

The WA Cares Fund is a new long-term care fund that employees will contribute to, and then, when eligible, have access to a lifetime benefit amount that, if needed, can be used on a wide range of long-term services and supports. WA Cares is self-funded entirely by worker contributions through a new LTSS premium. This program was created as the Long Term Services and Supports Trust Act under RCW 50B.04.

2. How much will employees pay towards the LTSS premium?

The current premium rate is 0.58% or 58 cents per $100 of earnings.

3. What type of earnings are subject to the LTSS premium?

Most wages paid to an employee are subject to premium assessment, with a few exceptions such as costs of meals and travel, and PFML supplemental benefit payments. For the complete list of wages reportable for premium assessment, refer to WAC 192-510-025.

4. How will deductions be taken in HRMS?

The LTSS premiums will be set up as a new Tax Type in HRMS: WA Cares Fund LTC Tax – EE (113). All individuals paid through HRMS will be subject to this new tax type unless systematically excluded or the agency has marked the employee exempt from the tax type on the Other Taxes - US (0235) infotype record.

5. When will the first premiums be deducted?

Employees will have LTSS premiums deducted from their earnings beginning on the January 10, 2022 pay check.

6. Who is required to pay LTSS premiums?

All individuals paid through HRMS will pay the LTSS premiums, unless they are found to not be liable; either because the employee's work is non-localized or they don't meet the definition of employee, employer, or employment.

The Long-Term Services and Supports Trust Program has defined the employee, employer, employment definitions to have the same meaning as the Family and Medical Leave program in RCW 50A.05.010. Agencies should review these definitions to determine if they employ individuals who are not liable for the LTSS premiums. Since the definitions for employee, employer, and employment are the same for both PFML and LTSS, these groups would not pay premiums for both PFML and LTSS.

In addition to the individuals not qualified for the program, ESD allows employees to submit an application for exemption from LTSS if the employee has a private long-term care insurance plan in place before November 1, 2021. If approved for LTSS exemption, the employee will be exempted from the program, not subject to LTSS premiums, and permanently disqualified from accessing LTSS/WA Cares benefits.

7. How will agencies know if an employee has received an approved exemption from Employment Security Department?

Employees may submit an exemption application to ESD beginning October 1, 2021 through December 31, 2022. ESD will notify the employee of their application status with either an approval or denial letter.

Employees are required to provide a copy of their exemption approval letter to all current and future employers.

8. What should agencies do with the employee's ESD exemption approval letter?

Agencies should enter the exemption in HRMS on the employee's Other Taxes – US (0235) infotype record. Refer to the Other Taxes – US user procedures for more information. Then, retain a copy of the employee's ESD exemption approval letter in the employee's payroll file.

If you receive any ESD exemption approval letters from employees prior to the new tax type being implemented in HRMS, then save them until you can enter their exemption in HRMS (scheduled for mid-December 2021 implementation).

9. Which of the non-qualified groups will be systematically excluded from the LTSS tax type?

The following groups identified as not subject to the LTSS premium, and will be systematically excluded from the LTSS tax type (113):

- Retired Firefighters and Reserve Officers receiving a pension in Personnel Area 2201.
- National Guard in Personnel Area 2451 Mil Dept Misc Active Duty.
- WCC Crew and Asst Supervisors in Personnel Area 4612 Washington Conservation Corps.
- DVA VetCorps in Business Area 3050 Department of Veterans Affairs and Employee Group F NWSpeclEmplymntComp

10. Who should be manually excluded from the LTSS tax type?

The following groups identified as not subject to the LTSS premium and will need to be manually excluded from the LTSS tax type: WA Cares Fund LTC Tax - EE (113):

- Employees whose work is non-localized.

- Employees who have applied for and received an approved LTSS exemption from Employment Security Department.
- Any other individuals paid through HRMS who agencies have determined are not liable for LTSS premiums.

Agencies will manually exclude these individuals from the LTSS premium by marking the employee exempt from the WA Cares Fund LTC Tax - EE (113) tax type on their Other Taxes (0235) infotype record.

For employees whose work is non-localized or who are determined as not liable for LTSS premiums, use the Exempt, not reportable "Y" selection in the Exempt field.

For employees who have received an ESD approved exemption, use the Exempt, reportable "R" selection in the Exempt field. These employees and their wages are reportable to ESD.

For more information on when to create an Other Taxes – US (0235) infotype record, refer to the Employer LTSS & PFML IT0235 Decision Matrix on the Payroll Resources webpage. Refer to the Other Taxes - US user procedures for creating this infotype in HRMS. Since there are different reasons for marking the employee's record as exempt, **OFM requires that you create infotype text and add a note describing the reason**:

- employee working out of state, non-localized
- individual does not meet the employment definition in RCW 50A.05.010
- approved ESD exemption

Refer to the Maintain Text user procedures for more information on adding or viewing infotype text.

It is important to understand the reason someone isn't paying the LTSS premium, because in the cases of an ESD approved exemption, the exemption is permanent. But in the cases of non-localized work or others not qualified to participate in the program, their eligibility (and need to report or not report wages) could change as jobs or work locations change, and their records would need to be updated to reflect the change in eligibility.

11. How do you determine if an employee's work is localized?

If the work is considered 'localized' to Washington, premiums should be collected whether they live in WA or not.

Localized means:

- The employee works in WA (100% of the service performed outside of state is temporary or transitory);
- Some of the work is performed in WA, and the base of operations is in WA or comes from WA; or
- If direction and control is not in any state, and the employee performs some work in WA and resides in WA.

This applies to both LTSS and PFML. If the employee's work is not localized, they are not liable for premiums and should have their Other Taxes – US (0235) infotype record set to Exempt, not reportable "Y" for all PFML and LTSS tax types (087 Employee Family Leave Insurance Tax, 099 Employee Medical Leave Insurance Tx, 100 Employer Medical Leave Insurance Tx, and 113 WA Cares Fund LTC Tax - EE).

For more information on localization, refer to the Employer LTSS & PFML IT0235 Decision Matrix on the Resources webpage.

12. What should we do when an employee leaves our agency and we have marked their Other Taxes – US (0235) infotype record as Exempt for the LTSS tax type?

If the employee is marked Exempt for the WA Cares Fund LTC Tax – EE (113) tax type on the Other Taxes – US (0235) infotype and they are leaving your agency (either due to separation or movement to another agency), it is important to know the reason why they weren't paying LTSS premium. (See the question "Who should be manually excluded from the LTSS tax type?" about adding the exclusion reason to the infotype text.)

If the employee wasn't paying LTSS premium because they have an ESD approved exemption, then when they leave your agency, do not end their Exempt, reportable "R" status on their Other Taxes – US (0235) infotype record. This exemption is permanent and should remain if the employee returns to state service or moves to a new agency. If they have other tax exemptions that need to be end dated, then follow the Other Taxes – US – Copy and Update Record user procedure to end the other taxes exemptions and retain the LTSS premium exemption. If the employee is moving to a new agency, transfer a copy of the employee's ESD exemption approval letter with the Employee Payroll Records Transmittal.

If the employee wasn't paying LTSS premiums because their work was non-localized or they did not meet the definition of employment in RCW 50A.05.010, then end their Exempt, not reportable "Y" status on their Other Taxes – US (0235) infotype record when they leave your agency. These reasons for not paying LTSS premiums are circumstantial that may no longer be valid when moving to a new agency or if they later return to state service.

13. What on-boarding process changes does OFM recommend related to LTSS?

OFM recommends that agencies ask employees during the on-boarding process if they have an approved ESD exemption from LTSS and if yes, request a copy of the employee's approval letter. It is ultimately the employee's responsibility to provide notice to all current and future employers of their ESD approved exemption, via providing a copy of their approval letter.

14. What off-boarding process changes does OFM recommend related to LTSS?

If the employee is transferring to another agency, include the copy of the exemption approval letter in the transmittal packet. The Employee Payroll Records Transmittal form (OFM 12-011) is being revised to include the exemption letter in the documents listed for transmittal.

15. What effective dates should agencies use when creating an Other Taxes – US (0235) infotype record?

Once the agency receives a copy of the employee's ESD approved exemption letter, create an exemption on the employee's Other Taxes – US (0235) infotype record. Refer to the Other Taxes - US user procedures.

The ESD exemption approval letter will state the exemption effective date. The Other Taxes – US (0235) infotype effective date needs to reflect the actual paycheck date the exemption should begin. The premiums are assessed when earnings are paid.

For example, if the employee's exemption effective date is January 1, 2022, then enter the start date of the Other Taxes – US (0235) infotype record as the actual paycheck date immediately following the effective date of the exemption: January 10, 2022.

If the employee provided late notification of their ESD approved exemption, we are recommending agencies back date the Other Taxes – US (0235) record to the beginning of the current quarter, resulting in a refund of employee premiums. For reporting purposes, employees who have an R indicator (Exempt, reportable) on IT0235 infotype for any pay date during the quarter will be reported as exempt for the full quarter. However, if the last paycheck of the current quarter has already processed, then no refunds should be given for the late notification since payroll has already processed for all the pay dates in that quarter. In this scenario, enter a start date of the first paycheck date of the following quarter.

Example: If the employee's exemption effective date is January 1, 2022 and you receive a copy of the employee's ESD exemption approval letter on February 28, 2022, then enter the start date of January 10, 2022. This will refund the employee the premium amounts withheld during the current quarter. Please note that this alone will not process; additional action is needed to force the retro.

Example: If the employee's exemption effective date is January 1, 2022 and you receive a copy of the employee's ESD exemption approval letter on March 24, 2022, then enter the start date of April 11, 2022. The employee provided late notification after payroll has processed for the last paycheck date in the quarter, so the employee is not entitled to a refund of premiums.

Keep in mind for an employee who was hired mid-quarter, you would only back date their exemption to their first paycheck date, not the beginning of the quarter.

Example: An employee was hired February 1. If their exemption effective date is January 1, 2022 and you receive a copy of the employee's ESD exemption approval letter on March 2, 2022, then enter the start date of February 25, 2022 (the date of their first paycheck). This will refund the employee the premium amounts withheld during the current quarter. Please note that this alone will not process; additional action is needed to force the retro.

16. In what scenarios would an employee be entitled to a refund of LTSS premiums?

An employee would be entitled to a refund of premiums if the employer erroneously deducted LTSS premiums for a period when the employee was not eligible to participate in the LTSS program due to their work being non-localized or the employee did not meet the definition of employment in RCW 50A.05.010.

The employee would be entitled to a refund of premiums if the employee provided the employer a copy of their ESD approved exemption letter and the employer failed to stop the deductions after the effective date of the approved exemption.

The employee is not entitled to a refund of premiums when they provide late notification of their ESD approved exemption. However, for late notifications, we are recommending refunding the employee any premiums withheld in the current quarter. See Question 16 for more details and examples.

17. Can agencies make retroactive changes to the employee's Other Taxes – US (0235) infotype record?

Retroactive effective dates can be entered on the Other Taxes – US (0235) infotype. When adding or removing the Exempt indicator for the LTSS tax type, HRMS will only retroactively refund or collect tax amounts for the current calendar year.

HRMS will correctly retroactively collect LTSS premiums when back pay is paid in the current period; because LTSS premiums are collected when wages subject to LTSS are paid, not earned.

18. In what scenarios would manual LTSS adjustments be necessary?

If an employee receives a payment not subject to LTSS, such as a settlement payment that indicates it is not subject to state taxes, then agencies will need to make an entry so that the wages aren't taxed. A new wage type has been added that can be used in these scenarios: Settlmt not sub StTx Ret (2055). This wage type can be used to pay settlement amounts that are not subject to any state taxes and retirement. This new wage type is similar to 1055, except this payment is also exempt from state taxes.

There also may be scenarios where a retroactive entry on Other Taxes – US (0235) infotype isn't allowed. A new adjustment wage type has been added that can be used in these scenarios: LTSS Taxable Wage Adj (2028). This wage type can be used to adjust the employee's LTSS taxable wages and premium amounts. This wage type should be used in the current payroll period and amounts should be entered as follows:

- Positive Amount: Increase LTSS taxable wages
- Negative Amount: Reduce LTSS taxable wages

Adjustments using wage type 2028 cannot exceed the current calendar year's wages. If an employee requires adjustments above the current calendar year's wages, this will require intervention from the HRMS team so please reach out to HeretoHelp@ofm.wa.gov with the details of your adjustment.

Both of these new wage types would be entered on the Additional Payments (0015) infotype. Refer to the Additional Payments – Create One-Time Payment or Deduction user procedure. You can also contact HereToHelp@ofm.wa.gov for assistance with these types of rare scenarios.

19. A Is the accounting, reporting, and payment of LTSS premiums similar to PFML premiums?

Yes, the process for LTSS will be very similar to PFML.

Two new wage types have been added to HRMS to collect premiums and accumulate and report taxable wages:

- /4B3 TX EE WA Ca – wage type that will deduct LTSS premium amounts from employee wages
- /7B3 RE EE WA Cares Fund LTC – wage type that will accumulate wages that are subject to LTSS premium assessment and/or reportable to ESD.

A new GL 5183 has been created for LTSS premiums. The following trans codes will be used to automatically transfer funds from the employee to Account 035 GL 5183:

For Agencies

189 – JV Receipt Long Term Support Services

385 – JV Disbursement Long Term Support Services

Wages and hours will be reported to ESD quarterly. You will make your payment for LTSS to ESD very similarly to how you pay PFML taxes.

20. Will there be a new report in HRMS to view wages, hours, and premiums collected for LTSS?

Yes, a new report will be available after the first quarter 2022. It is strongly recommended to download a copy of this report each quarter, similar to PFML.

21. Are LTSS premiums considered mandatory deductions?

Yes, LTSS premiums are mandatory deductions. They will show up in the mandatory deductions section of the earnings statement. They are considered mandatory deductions when determining sufficient wages available for processing garnishments.

22. What happens if the employee doesn't have enough net pay to cover all mandatory deductions?

If the employee doesn't have enough net pay to cover all mandatory deductions, then premiums will be deducted from future wages.

LTSS premiums are included with other state taxes when determining the order of deductions (federal taxes first, then state taxes, then voluntary deductions).

23. Why are there two WA Cares Fund tax types in HRMS on the Other Taxes – US (0235) infotype?

You will see two WA Cares Fund tax types on the Other Taxes – US (0235) infotype: WA Cares Fund LTC Tax – EE (113) and WA Cares Fund LTC Tax – ER (114). The WA Cares Fund is funded entirely by employee contributions. There are no employer premiums for this program. The employer tax type, WA Cares Fund LTC Tax – ER (114), was created and delivered by SAP and should be ignored. When you are exempting employees from LTSS premiums, use the tax type 113 – WA Cares Fund LTC Tax – EE.