

What's Next in State Mandated LTC?

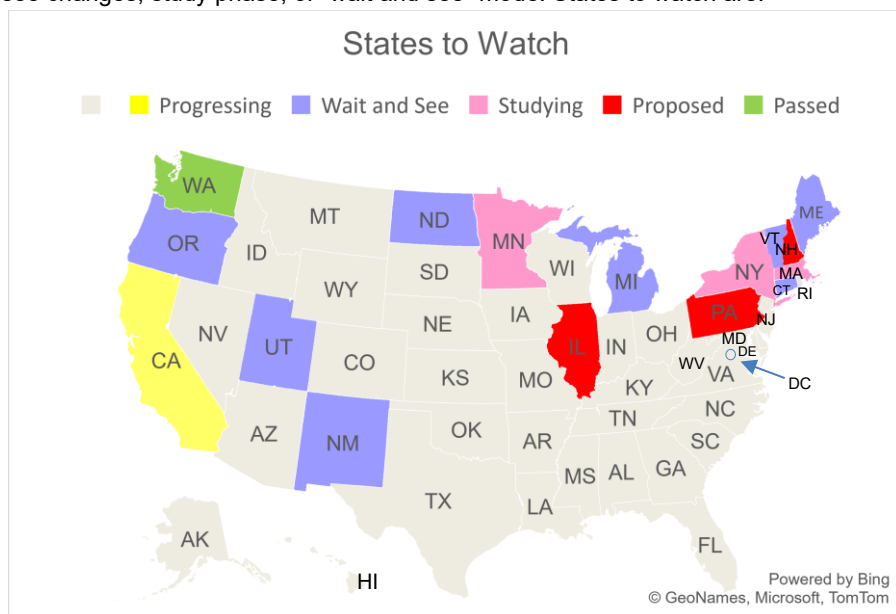
Shawn Britt - CLU, CLTC
 Director- LTC Initiatives, Advanced Consulting Group
 June 2023 Update

The WA Cares Fund was the first state mandated, publicly funded long-term care (LTC) insurance program in the nation to be passed. The delayed implementation will finally begin July 1, 2023. Now, we find other states looking into whether they should follow with their own platform. Will these states create programs similar to Washington, or go a different direction?

LTC expenditures are the number one use of Medicaid budgets, stretching these budgets beyond limits. It is hoped that state mandated LTC benefits, funded by the public, could help ease Medicaid budgets by being the first dollar paid before Medicaid would kick in. These states generally have goals to:

1. Provide the middle class with affordable LTC coverage that could help pay for care – often with a focus on home care.
2. Delay/avoid the use of Medicaid benefits for those who would qualify - with first dollars coming from the state LTC program.

Approximately **30%** of states are showing some level of interest in pursuing solutions to their own state's long-term care challenges. The following states are in various stages of interest, from actively preparing legislation, bills written that will likely see changes, study phase, or "wait and see" mode. States to watch are:



- STATES TO WATCH:**
- **California**
 - **New York**
 - **Pennsylvania**
 - Connecticut
 - Illinois
 - Maine
 - Massachusetts
 - Michigan
 - Minnesota
 - New Hampshire
 - New Mexico
 - North Dakota
 - Oregon
 - Utah
 - Vermont

The state farthest along with full-fledged planning is California. The CA task force did extensive work building models to consider for proposing a final bill. The final five options are now being studied and priced by Oliver Wyman Consultants¹. The report is due by Jan.1, 2024. While an opt-out is likely to be offered, the specifics of that opt-out may not be known until the recommended deadline for a policy to be purchased. Will inflation be required, and if so, how much? Will there be a benefit amount required? That is unknown. One might consider referencing the maximum benefit package proposed by CA. Also being considered is a reduced tax option, with back-end CA benefits for those buying LTC insurance after the bill is enacted.

New York proposed a bill in May of 2022, but it was not passed. It was not proposed again in 2023 but may resurface in 2024. The bill as currently written looks very similar to the WA Cares Fund. However, for purposes of the opt-out, the current NY definition of long-term care insurance only applies to traditional LTC insurance. It is hoped that New York will expand their definition of LTC insurance to one that is more extensive, similar to the Washington state definition.

Pennsylvania proposed a bill in 2022 and did so again in 2023. Provisions in the bill come primarily from the WA Cares Fund “template,” including a premium tax of 0.58%. A tax exemption for those owning LTC insurance is included, but no further details exist yet.

On a different note, Illinois is looking at a “Health Care for All Act,” while New Hampshire is looking to establish an interstate compact for universal health care. Both programs would include LTC coverage – but how much coverage is unknown. More concerning is that both programs would prohibit the sale in those states of any health care product covered under the legislation, including LTC insurance. This would force citizens to depend solely on what their state has to offer, unless they have a qualifying connection to another state that would enable them to buy private LTC coverage outside of their home state.

THE IMPORTANCE OF HAVING PRIVATE LTC COVERAGE

Whether to opt out of a state mandated LTC program (if available) is an individual decision. However, having privately owned LTC insurance - state program or not – and buying that coverage sooner than later is important for many reasons.

- **Buy the policy you want** that pays benefits the way you want to receive them, including full cash indemnity benefits. State programs generally limit payments to direct reimbursement to approved providers, or a reduced cash payment.
- **Guaranteed premiums and benefits.** State LTC tax could go up and benefits go down to remain financially sustainable.
- **More benefit leverage,** particularly for high earners. State programs may tax high earners more than benefits received.
- **More choice of care options.** State programs generally limit choice of care to the state’s list of approved care providers. Family caregivers may need to first get state certified and then be listed as an approved care provider.
- **Guaranteed portability between states.** State programs may not allow for benefits to be paid out of state (or country²).
- **Guaranteed annual inflation,** if that feature is chosen. State programs may not guarantee an annual inflation or the rate.
- **Premium protection with LTC products attached to life insurance** (or annuities). States do not refund unused benefits or premium tax paid if benefits are not used.
- **Avoid the rush.** Another mad rush as in WA to purchase exemption approved LTC coverage by a deadline date could force carriers to limit product choices, increase minimum coverage to control application numbers, or pull out entirely.
- **Increase your client’s marketability as a patient**
 - Care providers and facilities appreciate individuals with private insurance – and receiving the billed rate
 - State programs may only reimburse care providers at Medicaid rates – which may not even cover cost of care

State LTC programs may be of help to many constituents. But individuals who can afford private LTC coverage may value the additional benefits these policies provide - whether as their sole protection or as a supplement to basic state LTC benefits. Private coverage provides more flexibility to receive the care of choice and portable benefits to any state (or internationally²). As an industry, we need to be showing clients LTC coverage for the right reasons, not just to avoid an unwanted tax.

¹ <https://www.insurance.ca.gov/0500-about-us/03-appointments/upload/AB567OliverWymanFeasibilityReport2022.pdf>

² Some insurance companies will pay LTC benefits for insureds living outside of the United States. Please check the contract or contact the insurance company for details.



This material is not a recommendation to buy or sell a financial product or to adopt an investment strategy. Investors should discuss their specific situation with their financial professional.

Federal income tax laws are complex and subject to change. The information in this memorandum is based on current interpretations of the law and is not guaranteed. Neither Nationwide, nor its employees, its agents, brokers or registered representatives give legal or tax advice.

Nationwide, the Nationwide N and Eagle and Nationwide is on your side are service marks of Nationwide Mutual Insurance Company.
© 2023 Nationwide

NFM-22528AO.1 (06/23)