

## WSR 22-10-082

## PROPOSED RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2022-02.01—Filed May 3, 2022, 2:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-099.

Title of Rule and Other Identifying Information: WAC 182-08-197  
When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms?

Hearing Location(s): On June 7, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (HCA) continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance. Register in advance for this webinar [https://us02web.zoom.us/webinar/register/WN\\_\\_edPzYSMR9CMXCEzVIvwWw](https://us02web.zoom.us/webinar/register/WN__edPzYSMR9CMXCEzVIvwWw). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than June 8, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by June 7, 2022.

Assistance for Persons with Disabilities: Contact HCA rules coordinator, phone 360-725-1305, fax 360-586-9727, TTY telecommunication[s] relay service 711, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), by May 20, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement policy resolutions to support the PEBB program: Amended WAC 182-08-197 to implement Policy Resolutions PEBB 2022-01 Employees returning to work from active duty and PEBB 2022-04 Deferring PEBB retiree insurance coverage when the subscriber becomes eligible for the employer contribution.

Reasons Supporting Proposal: See purpose statement.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; Policy Resolutions PEBB 2022-01 and 2022-04.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Barbara Scott, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0830; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rules do not apply to small businesses.

May 3, 2022  
Wendy Barcus  
Rules Coordinator

## OTS-3746.1

AMENDATORY SECTION (Amending WSR 21-13-103, filed 6/18/21, effective 1/1/22)

**WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms?** An employee who is newly eligible or who regains eligibility for the employer contribution toward public employees benefits board (PEBB) benefits enrolls as described in this section.

(1) When an employee is newly eligible for PEBB benefits:

(a) An employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment provided the employee is eligible to waive as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency or contracted vendor. Their employing agency or contracted vendor must receive the forms no later than (~~(thirty-one)~~) 31 days after the employee becomes eligible for PEBB benefits under WAC 182-12-114.

(i) An employee may enroll in supplemental life insurance up to the guaranteed issue coverage amount without evidence of insurability if the required forms are returned to the employee's employing agency or contracted vendor as required. An employee may apply for enrollment in supplemental life insurance over the guaranteed issue coverage amount at any time during the calendar year by submitting the required form to the contracted vendor for approval. For an employee who requests a change in their supplemental life insurance after the election period described in this subsection, the change begins the first day of the month following the date the contracted vendor approves the request. An employee may enroll in supplemental accidental death and dismemberment (AD&D) insurance at any time during the calendar year without evidence of insurability by submitting the required form to the contracted vendor.

(ii) Employees are enrolled in employee-paid long-term disability (LTD) insurance automatically. An employee may elect to reduce their employee-paid LTD insurance or decline their employee-paid LTD insurance by returning the form to their employing agency. An employee may apply for a change in their employee-paid LTD insurance at any time during the calendar year by submitting the required form to their employing agency or the contracted vendor. For an employee who requests a change in their employee-paid LTD insurance after the election period described in this subsection, the change begins the first day of the month following the date the employing agency receives the required form requesting to reduce or decline the employee-paid LTD in-

insurance, or the day of the month the contracted vendor approves the required form to increase the employee-paid LTD insurance.

(iii) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee will automatically enroll in the premium payment plan upon enrollment in PEBB medical allowing medical premiums to be taken on a pretax basis. To opt out of the premium payment plan, a new employee must complete the required form and return it to their state agency. The form must be received by their state agency no later than (~~thirty-one~~) 31 days after the employee becomes eligible for PEBB benefits.

(iv) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee may enroll in the state's medical flexible spending arrangement (FSA) (~~(or)~~), limited purpose FSA, dependent care assistance program (DCAP), or both an FSA and DCAP, except as limited by subsection (4) of this section. To enroll in these PEBB benefits, the employee must return the required form to their state agency. The form must be received by the state agency no later than (~~thirty-one~~) 31 days after the employee becomes eligible for PEBB benefits.

(b) If a newly eligible employee's employing agency, or the authority's contracted vendor in the case of life insurance and AD&D insurance, does not receive the employee's required forms indicating medical, dental, life insurance, AD&D insurance, and LTD insurance elections, and the employee's tobacco use status attestation within (~~thirty-one~~) 31 days of the employee becoming eligible, their enrollment will be as follows for those elections not received within (~~thirty-one~~) 31 days:

- (i) A medical plan determined by the health care authority (HCA);
- (ii) A dental plan determined by the HCA;
- (iii) Basic life insurance;
- (iv) Basic AD&D insurance;
- (v) Employer-paid LTD insurance and employee-paid LTD insurance;
- (vi) Dependents will not be enrolled; and
- (vii) A tobacco use premium surcharge will be incurred as described in WAC 182-08-185 (1)(b).

(2) The employer contribution toward PEBB benefits ends according to WAC 182-12-131. When an employee's employment ends, participation in the salary reduction plan ends.

(3) When an employee regains eligibility for the employer contribution toward PEBB benefits, including following a period of leave described in WAC 182-12-133(1), or after being between periods of leave as described in WAC 182-12-142 (1) and (2), or 182-12-131 (3)(e), PEBB medical and dental begin on the first day of the month the employee is in pay status eight or more hours, or the first day of the month in which the quarter or semester begins for faculty who regains eligibility as described in WAC 182-12-131 (3)(e).

**Note:** When an employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward PEBB benefits, they regain eligibility for the employer contribution toward PEBB benefits the day they return from active duty. Employer-paid PEBB benefits will begin the first day of the month in which they return from active duty.

(a) An employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment if the employee chooses to waive enrollment as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency except as described in (d) of this subsection. Forms must be received by the employing agency, life insurance contracted vendor, or AD&D contracted vendor, if required, no later than (~~thirty-one~~) 31 days

after the employee regains eligibility, except as described in (a) (i) and (b) of this subsection:

(i) An employee who self-paid for supplemental life insurance or supplemental AD&D coverage after losing eligibility will maintain that level of coverage upon return;

(ii) An employee who was eligible to continue supplemental life insurance but discontinued that supplemental coverage must submit evidence of insurability to the contracted vendor if they choose to reenroll when they regain eligibility for the employer contribution;

(iii) An employee who was eligible to continue employee-paid LTD insurance but discontinued that coverage must submit evidence of insurability for employee-paid LTD insurance to the contracted vendor when they regain eligibility for the employer contribution.

(b) An employee or faculty in any of the following circumstances does not have to return a form indicating employee-paid LTD insurance elections. Their employee-paid LTD insurance will be automatically reinstated effective the first day of the month they are in pay status eight or more hours or the first day of the month in which the quarter or semester begins for faculty who regains eligibility as described in WAC 182-12-131 (3) (e):

(i) The employee continued to self-pay for their employee-paid LTD insurance after losing eligibility for the employer contribution;

(ii) The employee was not eligible to continue employee-paid LTD insurance after losing eligibility for the employer contribution.

(c) If an employee's employing agency, or contracted vendor accepting forms directly, does not receive the required forms within (~~thirty-one~~) 31 days of the employee regaining eligibility, the employee's enrollment for those elections not received will be as described in subsection (1) (b) (i) through (vii) of this section, except as described in (a) (i) and (b) of this subsection.

(d) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116) the employee may enroll in the medical FSA (~~(or)~~), limited purpose FSA, DCAP, or both an FSA and DCAP, except as limited by subsection (4) of this section. To enroll in these PEBB benefits, the employee must return the required form to the contracted vendor or their state agency. The contracted vendor or employee's state agency must receive the form no later than (~~thirty-one~~) 31 days after the employee becomes eligible for PEBB benefits.

(4) If an employee who is eligible to participate in the salary reduction plan (see WAC 182-12-116) is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in a DCAP (~~(or)~~), a medical FSA, or a limited purpose FSA until the beginning of the next plan year, unless the time between employments is (~~thirty~~) 30 days or less and within the current plan year. The employee must notify their new state agency of the transfer by providing the new state agency's personnel, payroll, or benefits office the required form no later than (~~thirty-one~~) 31 days after the employee's first day of work with the new state agency.

(5) An employee's PEBB benefits elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB benefits for one month or more. This includes movement of an employee between any entities described in WAC 182-12-111 and participating in PEBB benefits. PEBB benefits elections also remain the same when an employee has a break in employment that does not interrupt their employer contribution toward PEBB benefits.

(6) When a retiree becomes eligible for the employer contribution toward PEBB benefits, PEBB retiree insurance coverage will be automat-

ically deferred. The subscriber will be exempt from the deferral form requirement. When the subscriber is no longer eligible for the employer contribution toward PEBB benefits, they must enroll or defer PEBB retiree insurance coverage as described in WAC 182-12-171, 182-12-200, and 182-12-205.

[Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-11 and 2021-12. WSR 21-13-103 (Admin #2021-01.03), § 182-08-197, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021, 41.05.160 and PEBB policy resolution 2020-04. WSR 20-16-059 (Admin #2020-01), § 182-08-197, filed 7/28/20, effective 1/1/21. Statutory Authority: RCW 41.05.021, 41.05.160, and PEBB policy resolutions. WSR 19-17-073 (Admin #2019-01), § 182-08-197, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-08-197, filed 10/3/18, effective 1/1/19; WSR 17-19-077 (Order 2017-01), § 182-08-197, filed 9/15/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-08-197, filed 10/4/16, effective 1/1/17. Statutory Authority: RCW 41.05.160, 2015 c 116, and PEBB policy resolutions. WSR 15-22-099 (PEBB Admin # 2015-01 Rev 1), § 182-08-197, filed 11/4/15, effective 1/1/16. Statutory Authority: RCW 41.05.160 and 2013 2nd sp.s. c 4. WSR 14-20-058 (PEBB Admin 2014-02), § 182-08-197, filed 9/25/14, effective 1/1/15. Statutory Authority: RCW 41.05.160 and 2012 2nd sp.s. c 3. WSR 13-22-019 (Admin. 2013-01), § 182-08-197, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-08-197, filed 9/25/12, effective 11/1/12. Statutory Authority: RCW 41.05.160 and 2011 c 8. WSR 11-22-036 (Order 11-02), § 182-08-197, filed 10/26/11, effective 1/1/12. Statutory Authority: RCW 41.05.160. WSR 10-20-147 (Order 10-02), § 182-08-197, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-08-197, filed 11/17/09, effective 1/1/10; WSR 08-20-128 (Order 08-03), § 182-08-197, filed 10/1/08, effective 1/1/09; WSR 07-20-129 (Order 07-01), § 182-08-197, filed 10/3/07, effective 11/3/07; WSR 06-11-156 (Order 06-02), § 182-08-197, filed 5/24/06, effective 6/24/06. Statutory Authority: RCW 41.05.160, 41.05.350, and 41.05.165. WSR 05-16-046 (Order 05-01), § 182-08-197, filed 7/27/05, effective 8/27/05.]