

WSR 24-03-141

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-03.03—Filed January 23, 2024, 1:38 p.m., effective January 23, 2024, 1:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is creating new WAC 182-12-5110 When is a retiring school employee of an employer group eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage and 182-12-5120 What options for continuing health plan enrollment are available to a retiree of an employer group that ends participation in public employees benefits board (PEBB) or school employees benefits board (SEBB) insurance coverage, as authorized in SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5110 and 182-12-5120.

Statutory Authority for Adoption: RCW 41.05.080 and 41.05.083; SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule making is necessary to preserve the public peace, health, or safety, or support of the state government and its existing public institutions by establishing enrollment rules for a retiring school employee of an employer group and a retiree of an employer group that ends participation in public employees benefits board (PEBB) or school employees benefits board (SEBB) insurance coverage. This emergency rule making is necessary to implement SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session while the authority conducts the permanent rule-making process.

This filing continues the emergency rules filed under WSR 23-20-030, filed on September 25, 2023. The agency is continuing to review the PEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly. The text (OTS-4949.2) included with this filing differs from the text included with the first emergency filing (OTS-4949.3, filed under WSR 23-20-030). The proposed text under this emergency filing includes references to WAC 182-12-5200 (in subsections (4)(b) and (6)), which is a newly proposed WAC section, also filed under emergency rule filing, under WSR 24-02-061.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: January 23, 2024.

Wendy Barcus
Rules Coordinator

OTS-4949.2

NEW SECTION

WAC 182-12-5110 When is a retiring school employee of an employer group eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage? (1) The following definitions apply for this section:

(a) "Employer group" for the school employees' benefits board (SEBB) program means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by SEBB;

(b) "Employer-paid coverage" means SEBB insurance coverage for which an employer contribution is made by a SEBB employer group;

(c) "School employee" means an employee of an employee organization representing school employees and an employee of a tribal school as defined in RCW 28A.715.010, receiving SEBB insurance coverage under contractual agreement with the authority; and

(d) "Washington state-sponsored retirement plan" means the same as described in WAC 182-12-171(4).

(2) A retiring school employee of an employer group is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet the procedural and substantive eligibility requirements as described in subsections (3) and (4) of this section.

(3) **Procedural requirements.** A retiring school employee of an employer group must meet the substantive eligibility requirements as described in subsection (4) of this section and enroll or defer enrollment in PEBB retiree insurance coverage as described in (a) and (b) of this subsection:

(a) A retiring school employee of an employer group must enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 (1)(a) through (c).

(b) A retiring school employee of an employer group may defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 or 182-12-205 (4)(a).

(4) **Substantive eligibility requirements.** A school employee who is eligible for SEBB benefits through an employer group who ends public employment may enroll or defer enrollment in PEBB retiree insurance coverage if they meet procedural requirements as described in subsection (3) of this section and substantive eligibility requirements as described in this subsection, and WAC 182-12-171(3).

To be eligible to continue enrollment or defer enrollment in PEBB retiree insurance coverage, the school employee must be vested in and eligible to retire under a Washington state-sponsored retirement plan when the school employee's own employer-paid coverage, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, or continuation coverage ends. An exception to the requirement to be vested in and eligible to retire under a Washington state-sponsored retirement plan is provided in (a) of this subsection. To satisfy the requirement to immediately begin to receive a monthly retirement plan payment as described in (b) of this subsection, the school employee must begin receiving a monthly retirement plan payment no later than the first month following the school employee's own employer-paid coverage, COBRA coverage, or continuation coverage ending.

A retiring school employee of an employer group participating in SEBB insurance coverage under contractual agreement with the authority must be eligible to retire as described in (a) or (b) of this subsection to be eligible to continue PEBB retiree insurance coverage.

(a) A retiring school employee who is eligible to retire under a retirement plan sponsored by an employer group that is not a Washington state-sponsored retirement plan must meet the same age and years of service requirements as if they were a member of teachers retirement system Plan 1, if their date of hire with that employer group was before October 1, 1977, or Plan 2, if their date of hire with that employer group was on or after October 1, 1977.

(b) A retiring school employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with the exceptions described in WAC 182-12-171 (2) (d) (ii) and 182-12-5200(2).

(5) Eligible school employees of an employer group who participate in SEBB life insurance as a school employee and meet the qualifications for PEBB retiree insurance coverage provided in this section are eligible for retiree term life insurance and may enroll as described in WAC 182-12-209.

(6) A school employee of an employer group who is determined to be retroactively eligible for disability retirement is eligible to enroll or defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-211. The exceptions to the requirement to immediately begin to receive a monthly pension benefit as described in WAC 182-12-211 (1) (c) (i) and 182-12-5200(2) include a school employee of an employer group.

(7) The survivor of an eligible school employee of an employer group is eligible to enroll or defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-265(3).

(8) Once enrolled in PEBB retiree insurance coverage, retirees and their dependents are subject to all applicable rules in chapters 182-08, 182-12, and 182-16 WAC.

(9) A retired school employee of an employer group that ends participation in SEBB insurance coverage is no longer eligible to continue enrollment in PEBB retiree insurance coverage. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-5120.

NEW SECTION

WAC 182-12-5120 What options for continuing health plan enrollment are available to a retiree of an employer group that ends participation in public employees benefits board (PEBB) or school employees benefits board (SEBB) insurance coverage? (1) The following definitions apply to this section only:

(a) "School employee" means an employee of an employee organization representing school employees and an employee of a tribal school as defined in RCW 28A.715.010.

(b) "Subscriber" means the retired employee or the retired school employee as described in subsection (3) of this section who is requesting enrollment in public employees benefits board (PEBB) health plan coverage.

(2) A retired employee or a retired school employee of an employer group as defined in RCW 41.05.011 (9)(a) and (b), except a Washington state educational service district, that ends participation in PEBB or school employees benefits board (SEBB) insurance coverage, is no longer eligible to continue enrollment in PEBB retiree insurance coverage if they enrolled after September 15, 1991.

(3) A retired employee or a retired school employee who loses eligibility for PEBB retiree insurance coverage as described in subsection (2) of this section, may continue PEBB health plan coverage as follows:

(a) The subscriber may elect to enroll in PEBB medical, dental, or both by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). The subscriber enrolled under this section is not eligible for any subsidy provided under RCW 41.05.085.

(b) The subscriber must submit the required forms to the PEBB program and they must be received no later than 60 days after the employer group ends their participation.

(i) The subscriber may enroll eligible dependents as described in WAC 182-12-260 and must include the dependent's enrollment information on the required forms.

(ii) If the subscriber elects to enroll a dependent in PEBB health plan coverage, the dependent will be enrolled in the same PEBB medical and PEBB dental plans as the subscriber.

Exception: If the subscriber selects a medicare supplement plan or medicare advantage prescription-drug (MA-PD) plan, nonmedicare enrollees will be enrolled in the Uniform Medical Plan (UMP) Classic. If the subscriber selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(iii) The subscriber's account may incur a premium surcharge in addition to their monthly medical premium and the subscriber must attest as described in WAC 182-08-185 (1) and (2). A premium surcharge will be applied to a subscriber who does not attest. If the subscriber's attestation results in a premium surcharge, it will take effect the same date as PEBB medical begins.

(c) The effective date of enrollment in PEBB health plan coverage will be the first day of the month following the day the subscriber loses eligibility for PEBB retiree insurance coverage.

Note: Enrollment in the PEBB program's medicare advantage (MA) or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB health plan coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB health plan coverage is to begin, the subscriber and their enrolled dependents will be enrolled in the UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(d) The subscriber's first premium payment and applicable premium surcharges are due to HCA no later than 45 days after the election pe-

riod ends as described in (b) of this subsection. Following the first premium payment, premiums and applicable premium surcharges must be paid as premiums become due. If the subscriber's monthly premium and applicable premium surcharges remain unpaid for 60 days from the original due date, the subscriber's PEBB insurance coverage will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-08-180 (1)(c).

Exception: For a subscriber enrolled in a MA or a MA-PD plan, a notice will be sent to them notifying them that they are delinquent on their monthly premiums and that the enrollment will be terminated prospectively to the end of the month after the notice is sent.

Note: An employer group as defined in RCW 41.05.011 (9)(a) and (b) that enters into a contractual agreement with the authority on or after May 4, 2023, and whose contractual agreement is subsequently terminated, shall make a one-time payment to the authority for each of the employer group's retired employees or retired school employees who continue participation under this section as described in RCW 41.05.083.

(e) PEBB health plan coverage may continue unless the subscriber requests to terminate enrollment as described in subsection (5) of this section, or premiums and applicable premium surcharges are no longer paid as described in (d) of this subsection. If PEBB health plan coverage is terminated for these reasons, the subscriber and their enrolled dependents will not be eligible to reenroll under this section.

Note: The eligibility described in this subsection regarding continuing health plan enrollment when an employer group ends participation, replaces the eligibility described in WAC 182-08-245(7), 182-12-146(3), and 182-12-171 (2)(c)(iii) and (iv).

(4) The subscriber enrolled under this section may make enrollment changes on the same terms and conditions as a continuation coverage subscriber as described in WAC 182-08-185, 182-08-196, 182-08-198, and 182-12-262.

(5) The subscriber enrolled under this section who requests to voluntarily terminate their PEBB health plan coverage must do so in writing. PEBB health plan coverage will end on the last day of the month in which the PEBB program receives the termination request or on the last day of the month specified in the subscriber's termination request, whichever is later. If the termination request is received on the first day of the month, PEBB health plan coverage will end on the last day of the previous month.

Exception: When a subscriber or their dependent is enrolled in a MA or MA-PD plan, then enrollment in PEBB health plan coverage will terminate on the last day of the month when the MA plan disenrollment form is received.

(6) The subscriber must update their address with the PEBB program as described in WAC 182-08-191.

(7) The subscriber is limited to one enrollment per individual in PEBB health plan coverage as described in WAC 182-12-123.

(8) The requirements in WAC 182-12-263 about National Medical Support Notice apply.

(9) The subscriber may receive the PEBB wellness incentive as described in WAC 182-12-300.