

WSR 24-14-128

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-01.03—Filed July 2, 2024, 2:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-04-060.

Title of Rule and Other Identifying Information: The following section is being amended: WAC 182-08-180 Premium payments and premium refunds.

Hearing Location(s): On August 6, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_ICtK0VXGQXC1K3UtUFFypw. 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 August 7, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning July 3, 2024, 8:00 a.m., by August 6, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by July 26, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 182-08-180 to support the public employees benefits board (PEBB) program:

1. Implement statutory changes:

- In response to SHB 1804, section 1, chapter 312, Laws of 2023, HCA implemented to include language that addresses a retired employee, a retired school employee, or a survivor electing to enroll in PEBB health plan coverage when their employer group ceases participation.
- In response to HB 2481, section 1, chapter 185, Laws of 2024, HCA implemented to include language that addresses when premiums and applicable premium surcharges are waived for a retiree who dies.

2. Make technical amendments:

- Included PEBB vision premiums and applicable premium surcharges be made to HCA.
- Included uniform medical plan classic medicare plan to address medicare Part D late enrollment penalty.
- Created exceptions to include subscribers who are electing PEBB retiree insurance coverage but not required to make the first premium payment and applicable premium surcharges to begin enrollment.
- Updated WAC references.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.065, 41.05.160; SHB 1804, section 1, chapter 312, Laws of 2023; HB 2481, section 1, chapter 185, Laws of 2024.

Statute Being Implemented: RCW 41.05.021, 41.05.160; SHB 1804, section 1, chapter 312, Laws of 2023; HB 2481, section 1, chapter 185, Laws of 2024.

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

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: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; 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.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

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.

July 2, 2024

Wendy Barcus

Rules Coordinator

OTS-5520.1

AMENDATORY SECTION (Amending WSR 22-13-158, filed 6/21/22, effective 1/1/23)

WAC 182-08-180 Premium payments and premium refunds. Public employees benefits board (PEBB) insurance coverage premiums and applicable premium surcharges for all subscribers are due as described in this section, except when an employing agency is correcting its enrollment error as described in WAC 182-08-187 (4) or (5).

(1) **Premium payments.** PEBB insurance coverage premiums and applicable premium surcharges for all subscribers become due the first of the month in which PEBB insurance coverage is effective.

Premiums and applicable premium surcharges are due from the subscriber for the entire month of PEBB insurance coverage and will not be prorated during any month, except as described in (e) of this subsection.

(a) For subscribers not eligible for the employer contribution that are electing to enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 (1) (a), 182-12-180 (3) (a), 182-12-200 (3) (a) or (b), 182-12-205 (6) or (7), 182-12-211, and 182-12-265 (1), (2) (d), and (3); or electing to enroll in continuation coverage as described in WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, 182-12-148, and 182-12-270; or a retired employee, a retired school employee, or a

survivor electing to enroll in PEBB health plan coverage when their employer group ceases participation as described in WAC 182-12-232, the first premium payment and applicable premium surcharges are due to the health care authority (HCA) or the contracted vendor no later than 45 days after the election period ends as described within the Washington Administrative Code applicable to the subscriber. Premiums and applicable premium surcharges associated with continuing PEBB medical must be made to the HCA as well as premiums associated with continuing PEBB dental, PEBB vision, or long-term disability (LTD) insurance coverage. Any medicare part D late enrollment penalty associated with the medicare advantage-prescription drug plan or Uniform Medical Plan Classic medicare plan must be made to the contracted vendor. Premiums associated with life insurance and accidental death and dismemberment (AD&D) insurance coverage must be made to the contracted vendor. Following the first premium payment, premiums and applicable premium surcharges must be paid as premiums become due.

Exceptions: (1) A subscriber electing to enroll in PEBB retiree insurance coverage who elects to pay premiums by deducting from their Washington state department of retirement systems pension retirement benefit is not required to make the first premium payment and applicable premium surcharges to begin enrollment. If there is a delay in the deduction from the pension when the subscriber first enrolls, HCA will send an invoice to the subscriber for the first premium payment and applicable premium surcharges.
(2) A subscriber enrolled in continuation coverage as defined in WAC 182-08-015 or 182-30-020 who is electing to enroll in PEBB retiree insurance coverage, or a subscriber enrolled in continuation coverage as defined in WAC 182-08-015 who is electing to enroll in another type of continuation coverage is not required to make the first premium payment and applicable premium surcharges to begin the new enrollment.

(b) For employees who are eligible for the employer contribution, premiums and applicable premium surcharges are due to the employing agency or contracted vendor. If an employee elects supplemental coverage or employee-paid LTD insurance, or is enrolled in employee-paid LTD insurance as described in WAC 182-08-197 (1)(a) or (3)(a), or is enrolled in employee-paid LTD insurance as described in WAC 182-08-197 (1)(b), the employee is responsible for payment of premiums from the month that the supplemental coverage or employee-paid LTD insurance begins.

Exception: An employee who is on a leave of absence and maintains eligibility for the employer contribution, will have their premiums waived for their employee-paid LTD insurance for the first 90 days. For this purpose, "leave of absence" is defined as a paid or unpaid temporary or indefinite administrative leave, involuntary leave, sick leave, or insurance continued under the federal Family and Medical Leave Act, or paid family and medical leave program as described in WAC 182-12-138.

(c) Unpaid or underpaid premiums or applicable premium surcharges for all subscribers must be paid, and are due from the employing agency, subscriber, or a subscriber's legal representative to the HCA or contacted vendor. For subscribers not eligible for the employer contribution, monthly premiums or applicable premium surcharges that remain unpaid for 30 days will be considered delinquent. A subscriber is allowed a grace period of 30 days from the date the monthly premiums or applicable premium surcharges become delinquent to pay the unpaid premium balance or applicable premium surcharges. If a subscriber's monthly premiums or 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 premiums and any applicable premium surcharges were paid. If it is determined by the HCA that payment of the unpaid balance in a lump sum would be considered a hardship, the HCA may develop a reasonable payment plan of up to 12 months in duration with the subscriber or the subscriber's legal representative upon request.

Exception: For a subscriber enrolled in a medicare advantage ((or) plan, a medicare advantage-prescription drug plan, or the Uniform Medical Plan Classic medicare 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.

(d) Monthly premiums or applicable premium surcharges due from a subscriber who is not eligible for the employer contribution will be considered unpaid if one of the following occurs:

(i) No payment of premiums or applicable premium surcharges are received by the HCA or contracted vendor and the monthly premiums or applicable premium surcharges remain unpaid for 30 days; or

(ii) Premium payments or applicable premium surcharges received by the HCA or contracted vendor are underpaid by an amount greater than an insignificant shortfall and the monthly premiums or applicable premium surcharges remain underpaid for 30 days past the date the monthly premiums or applicable premium surcharges were due.

(e) When an enrolled retiree dies on or after June 6, 2024, the premium payments for PEBB medical, PEBB dental, PEBB vision, and any applicable premium surcharges for the retiree will be waived by HCA for the month in which the death occurred. Subscribers enrolled as described in WAC 182-12-265 (2)(c) will be responsible for their continued payment of premiums and applicable premium surcharges as described in this section.

(2) **Premium refunds.** PEBB insurance coverage premiums and applicable premium surcharges will be refunded using the following methods:

(a) When a subscriber submits an enrollment change affecting subscriber or dependent eligibility, HCA may allow up to three months of accounting adjustments. HCA will refund to the individual or the employing agency any excess premiums and applicable premium surcharges paid during the 60-day adjustment period, except as indicated in WAC 182-12-148(5).

(b) When premiums and applicable premium surcharges are waived for a retiree who dies as described in subsection (1)(e) of this section, HCA will refund any excess premiums and applicable premium surcharges paid to the retiree's estate, to the department of retirement systems, or apply any excess premiums to the surviving dependent's account.

(c) If a PEBB subscriber, dependent, or beneficiary submits a written appeal as described in WAC 182-16-2010, and provides clear and convincing evidence of extraordinary circumstances, such that the subscriber could not timely submit the necessary information to accomplish an allowable enrollment change within 60 days after the event that created a change of premiums, the PEBB director, the PEBB director's designee, or the PEBB appeals unit may:

(i) Approve a refund of premiums and applicable premium surcharges which does not exceed 12 months of premiums; and

(ii) Approve the enrollment change that was originally requested and which forms the basis for the refund.

~~((e))~~ (d) If a federal government entity determines that an enrollee is retroactively enrolled in coverage (for example, medicare) the subscriber or beneficiary may be eligible for a refund of premiums and applicable premium surcharges paid during the time they were enrolled under the federal program if approved by the PEBB director or the PEBB director's designee.

~~((d))~~ (e) HCA errors will be corrected by returning all excess premiums and applicable premium surcharges paid by the employing agency, subscriber, or beneficiary.

~~((e))~~ (f) Employing agency errors will be corrected by returning all excess premiums and applicable premium surcharges paid by the employee or beneficiary as described in WAC 182-08-187 (4) and (5).