

WSR 22-10-083

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin 2022-02.02—Filed May 3, 2022, 2:09 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 182-12-123
Is dual enrollment in public employees benefits board (PEBB) and school employees benefits board (SEBB) prohibited?

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. 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, 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, 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 a policy resolution and to make technical amendments to support the PEBB program:

1. Implement PEBB Policy Resolution: Amended WAC 182-12-123 to implement Policy Resolution PEBB 2022-02 employees may waive enrollment in dental.

2. Make other technical amendments: Amended WAC 182-12-123 to add specific timelines when an employee must resolve their dual enrollment, to update citation references, to include additional WAC references, to clarify specific timelines when a school employee must resolve their dual enrollment, to provide a technical correction, and to add new language related to reinstating coverage retroactively.

Reasons Supporting Proposal: See purpose statement.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; Policy Resolution PEBB 2022-02.

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-3776.1

AMENDATORY SECTION (Amending WSR 21-13-102, filed 6/18/21, effective 1/1/22)

WAC 182-12-123 Is dual enrollment in public employees benefits board (PEBB) and school employees benefits board (SEBB) prohibited?

Public employees benefits board (PEBB) medical and dental coverage is limited to a single enrollment per individual as described in subsections (1) through (5) of this section. Effective January 1, 2022, individuals are limited to a single enrollment in medical, dental, and vision plans in either the PEBB program or school employees benefits board (SEBB) program as described in subsection (6) of this section.

(1) An individual who has more than one source of eligibility for enrollment in PEBB medical and PEBB dental coverage (called "dual eligibility") is limited to one enrollment.

(2) An eligible employee may waive PEBB medical and enroll as a dependent under the PEBB medical plan of their spouse, state registered domestic partner, or parent as described in WAC 182-12-128.

(3) A dependent enrolled in PEBB medical or PEBB dental who becomes eligible for PEBB benefits as an employee must elect to enroll in PEBB benefits as described in WAC 182-08-197 (1) or (3). This includes making an election to enroll in or waive enrollment in PEBB medical as described in WAC 182-12-128.

(a) If the employee does not waive enrollment in PEBB medical, the employee is not eligible to remain enrolled in their spouse's, state registered domestic partner's, or parent's PEBB medical as a dependent. If the employee's spouse, state registered domestic partner, or parent does not take action to remove the employee (who is enrolled as a dependent) from their subscriber account, the PEBB program will automatically disenroll the employee's enrollment as a dependent the last day of the month before the employee's enrollment in PEBB benefits begins as described in WAC 182-12-114.

Exception: An enrolled dependent who becomes newly eligible for PEBB benefits as an employee may be dual-enrolled in PEBB medical and dental for one month. This exception is only allowed for the first month the dependent is enrolled as an employee, and only if the dependent becomes enrolled as an employee on the first working day of a month that is not the first day of the month.

(b) If the employee elects to waive their enrollment in PEBB medical, the employee will remain enrolled in PEBB medical under their spouse's, state registered domestic partner's, or parent's PEBB medical as a dependent.

(4) A child who is eligible for PEBB medical and PEBB dental under two subscribers may be enrolled under both subscribers but is limited to a single enrollment in PEBB medical and a single enrollment in PEBB dental.

(5) When an employee is eligible for the employer contribution toward PEBB benefits due to employment in more than one PEBB-participating employing agency the following provisions apply:

(a) The employee must choose to enroll under only one employing agency.

Exception: Faculty who seek to establish or maintain eligibility as described in WAC 182-12-114(3) with two or more state institutions of higher education will be enrolled under the employing agency responsible to pay the employer contribution according to WAC 182-08-200(2).

(b) If the employee loses eligibility under the employing agency, they must notify their other employing agency no later than ~~((sixty))~~ 60 days from the date PEBB benefits end through the employing agency described in (a) of this subsection to transfer coverage.

(c) The employee's elections remain the same when an employee transfers their enrollment under one employing agency to another employing agency without a break in PEBB benefits for one month or more, as described in (b) of this subsection.

(6) An individual who has more than one source of eligibility for enrollment in the PEBB and SEBB programs is limited to a single enrollment in medical, dental, and vision plans in either the PEBB or SEBB program. An employee must elect to enroll in PEBB benefits as described in WAC 182-08-197, waive enrollment as described in WAC 182-12-128, or remove eligible dependents as described in WAC 182-12-262. If the ~~((individual))~~ employee takes no action to resolve the dual enrollment, the PEBB program or the SEBB program will automatically enroll or automatically disenroll the individual as described in (d) through (h) of this subsection.

(a) An eligible employee may waive enrollment in PEBB medical to enroll in SEBB medical only if they are enrolled in SEBB dental and SEBB vision as described in WAC 182-12-128. An employee who waives enrollment in PEBB medical to enroll in SEBB medical also waives enrollment in PEBB dental.

(b) An eligible employee who waives enrollment in PEBB medical when they are enrolled in other employer-based group medical, a TRI-CARE plan, or medicare as described in WAC 182-12-128, and are not enrolled in SEBB medical, may waive enrollment in PEBB dental only if they are enrolled in both SEBB dental and SEBB vision as an eligible dependent in the SEBB program.

(c) A school employee in the SEBB program who waives SEBB medical, SEBB dental, and SEBB vision for PEBB medical must be enrolled in PEBB dental. ~~If ((necessary,))~~ the school employee is not already enrolled in PEBB dental, the PEBB program will automatically enroll the ~~((individual))~~ school employee in the associated subscriber's PEBB dental.

~~((e))~~ (d) If the employee is enrolled only in PEBB dental, and is also enrolled in SEBB medical, and no action is taken to resolve their dual enrollment, the employee will remain in SEBB medical. The PEBB program will automatically disenroll the employee from PEBB dental in which they are enrolled. If the employee is not already enrolled in SEBB dental or SEBB vision, the SEBB program will automatically enroll them in both as described in WAC 182-31-070 (6)(g). The employee's enrollment in PEBB program life insurance, accidental death and dismemberment (AD&D) insurance, and long-term disability (LTD) insurance will remain.

~~((d))~~ (e) If the employee is enrolled in PEBB medical and is also a school employee in the SEBB program and enrolled in SEBB medical, and the employee has been enrolled in SEBB medical longer than they have been enrolled in PEBB medical, and no action is taken by the employee to resolve their dual enrollment, they will remain in SEBB medical. The PEBB program will automatically disenroll the employee from PEBB medical and PEBB dental. The employee's enrollment in PEBB program life insurance, AD&D insurance, and LTD insurance will remain. If the employee ~~((eligible under both the PEBB program as an employee and the SEBB program as a school employee is not enrolled in any medical, but is enrolled only in PEBB dental and SEBB vision (with or without SEBB dental), the employee will remain in SEBB vision and if enrolled, SEBB dental))~~ is not enrolled in medical under either the PEBB or SEBB program but is enrolled only in PEBB dental and SEBB vision (with or without enrollment in SEBB dental), the employee will remain in SEBB vision and if enrolled, SEBB dental. If the employee is not already enrolled in SEBB dental, the SEBB program will automatically enroll them as described in WAC 182-31-070 (6) (g). The PEBB program will automatically disenroll the employee from PEBB dental.

~~((e))~~ (f) If the employee's dependent is enrolled in any PEBB medical or PEBB dental plan, and the dependent is also a school employee in the SEBB program and enrolled in SEBB medical, and no action is taken by either the employee or the dependent to resolve the dependent's dual enrollment, the employee's dependent will remain in SEBB medical. The PEBB program will automatically disenroll the employee's dependent from PEBB medical and PEBB dental in which they are enrolled.

~~((f))~~ (g) If the employee's dependent is enrolled in both PEBB medical and SEBB medical as a dependent and has been enrolled in SEBB medical longer than they have been enrolled in PEBB medical, and no action is taken to resolve the dual enrollment, the employee's dependent will remain in SEBB medical. The PEBB program will automatically disenroll the employee's dependent from PEBB medical and PEBB dental if they are enrolled. If the employee's dependent who is eligible as a dependent in both the PEBB and SEBB programs is not enrolled in any medical but is enrolled only in PEBB dental and SEBB vision (with or without SEBB dental) as a dependent, the dependent will remain in SEBB vision and if enrolled, SEBB dental. The PEBB program will automatically disenroll the employee's dependent from PEBB dental.

Exception: If there is a National Medical Support Notice (NMSN) or a court order in place, enrollment will be in accordance with the NMSN or order.

~~((g))~~ (h) If the employee's dependent, who is also a school employee in the SEBB program who the SEBB program automatically disenrolled from SEBB dental and SEBB vision, the PEBB program will automatically enroll the employee's dependent in PEBB dental, if they are not already enrolled.

~~((h))~~ (i) If the employee who is eligible for the employer contribution toward PEBB benefits was enrolled as a dependent in SEBB medical, SEBB dental, and SEBB vision and is removed by the SEBB subscriber, the employee will be required to return from waived enrollment as described in WAC 182-12-128 (3) (b).

(j) If the PEBB program automatically disenrolls an individual from PEBB medical or PEBB dental to resolve their dual enrollment as described in (e), (f), or (g) of this subsection, but later determines that the employee did take action to resolve their dual enrollment within the required timelines, the PEBB program will reinstate cover-

age retroactive to the first of the month in which the individual was disenrolled.

(7) A retiree who defers enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 by enrolling as an eligible dependent in a health plan sponsored by PEBB, a Washington state educational service district, or SEBB and who loses the employer contribution for such coverage must enroll in PEBB retiree insurance coverage as described in WAC 182-12-200 or defer enrollment as described in WAC 182-12-205.

[Statutory Authority: RCW 41.05.021, 41.05.160 and Policy resolutions PEBB 2021-02, 2021-03, 2021-04, 2021-05, 2021-06, 2021-07, 2021-08, 2021-09. WSR 21-13-102 (Admin #2021-01.02), § 182-12-123, filed 6/18/21, effective 1/1/22. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-16-062 (Admin #2020-03), § 182-12-123, 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), § 182-12-123, filed 8/20/19, effective 1/1/20; WSR 18-20-117 (Admin #2018-02), § 182-12-123, filed 10/3/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2016 c 67, and PEBB policy resolutions. WSR 16-20-080, § 182-12-123, 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), § 182-12-123, 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), § 182-12-123, 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), § 182-12-123, filed 10/28/13, effective 1/1/14. Statutory Authority: RCW 41.05.160. WSR 12-20-022 (Order 2012-01), § 182-12-123, filed 9/25/12, effective 11/1/12; WSR 10-20-147 (Order 10-02), § 182-12-123, filed 10/6/10, effective 1/1/11; WSR 09-23-102 (Order 09-02), § 182-12-123, filed 11/17/09, effective 1/1/10; WSR 07-20-129 (Order 07-01), § 182-12-123, filed 10/3/07, effective 11/3/07. Statutory Authority: RCW 41.05.160 and 41.05.165. WSR 04-18-039, § 182-12-123, filed 8/26/04, effective 1/1/05.]