

## WSR 24-11-094

## PROPOSED RULES

## HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2024-01—Filed May 16, 2024, 3:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-04-062.

Title of Rule and Other Identifying Information: **The following sections in chapter 182-30 WAC are revised:** WAC 182-30-010 Purpose, 182-30-020 Definitions, 182-30-040 Premium payments and premium refunds, 182-30-050 What are the requirements regarding premium surcharges?, 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors?, 182-30-070 The employer contribution is set by the health care authority (HCA) and paid to the HCA for all eligible school employees, 182-30-075 Subscriber address requirements, 182-30-080 When must a newly eligible school employee, or a school employee who regains eligibility for the employer contribution, elect school employees benefits board (SEBB) benefits and complete required forms?, 182-30-090 When may a subscriber change health plans?, 182-30-130 What are the requirements for a school employees benefits board (SEBB) organization engaging in local negotiations regarding SEBB benefits eligibility criteria?, and 182-30-140 What is the process for school districts to offer optional benefits?

**The following sections in chapter 182-31 WAC are revised:** WAC 182-31-010 Purpose, 182-31-020 Definitions, 182-31-060 Who is eligible to participate in the salary reduction plan?, 182-31-100 What options for continuation coverage are available to school employees and their dependents during certain types of leave or when employment ends due to a layoff?, 182-31-150 When may subscribers enroll or remove eligible dependents?, and 182-31-160 National Medical Support Notice (NMSN).

**The following sections in chapter 182-32 WAC are revised:** WAC 182-32-020 Definitions, 182-32-064 Applicable rules and laws, 182-32-2010 Appealing a decision regarding school employees benefits board (SEBB) eligibility, enrollment, premium payments, premium surcharges, a wellness incentive, or the administration of benefits, 182-32-2030 Appealing a school employees benefits board (SEBB) program decision regarding eligibility, enrollment, premium payments, premium surcharges, and a SEBB wellness incentive, 182-32-2040 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements?, 182-32-2050 How can a school employee appeal a decision regarding the administration of benefits offered under the salary reduction plan?, 182-32-2070 What should a written request for administrative review and a request for brief adjudicative proceeding contain?, 182-32-2100 How to request a review of an initial order resulting from a brief adjudicative proceeding, 182-32-2130 Judicial review of final order, 182-32-2140 Presiding officer—Designation and authority, 182-32-2150 Reviewing officer or officers—Designation and authority, and 182-32-3175 How to request a review of an initial order by the office of administrative hearings.

**The following sections in chapters 182-30, 182-31, and 182-32 WAC are created:** WAC 182-30-200 Employer group application process, 182-30-205 May employer groups applying for participation in school employees benefits board (SEBB) insurance coverage include their retirees?, 182-30-210 How will the health care authority (HCA) decide to

approve or deny a group application?, 182-30-215 Employer group participation requirements, 182-31-200 School board members participation requirements, and 182-32-2060 How can an entity or organization appeal a decision of the health care authority to deny an employer group application?

Hearing Location(s): On June 25, 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\\_71S7AVjqRpmWNbN\\_6M4B1Q](https://us02web.zoom.us/webinar/register/WN_71S7AVjqRpmWNbN_6M4B1Q). 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 26, 2024.

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, beginning May 17, 2024, 8:00 a.m., by June 25, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email [Johanna.Larson@hca.wa.gov](mailto:Johanna.Larson@hca.wa.gov), by June 14, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend rules to support the SEBB program:

**1. Implement SEBB policy resolutions and statutory changes:**

- Created WAC 182-30-200 to establish employer group application process;
- Created WAC 182-30-205 to establish the requirements for an employer group to request inclusion of retired school employees who are covered under its retiree health plan at the time of applying for participation in the SEBB insurance coverage;
- Created WAC 182-30-210 to establish the criteria for approving or denying an employer group application;
- Created WAC 182-30-215 to establish employer group participation requirements;
- Created WAC 182-31-200 to establish school board members' participation requirements;
- Created WAC 182-32-2060 to establish appeals procedures for an entity or organization to file an appeal with the authority if their employer group application is denied;
- Created the definitions of "employer group," "school board member," and "tribal school" in WAC 182-30-020, 182-31-020, and 182-32-020;
- Created the definitions of "employer group rate surcharge," "on-going large claim," and "plan year" "large claims" in WAC 182-30-020;
- Created the definition of "PEBB program" and amended the definition of "waive" to include public employees benefits board's vision in WAC 182-30-020 and 182-31-020;
- Amended the definition of "flexible spending arrangement" in WAC 182-30-020, 182-31-020, and 182-32-020; and amended the definitions of "salary reduction plan" and "special open enrollment" in WAC 182-30-020 and 182-31-020 to implement SB 5700;
- Amended the definition of "SEBB program" to include eligible school board members, amended the definition of "subscriber" to include school board member and employer group; and amended the definition of "school employee" to include employees of employee

organizations representing school employees and employees of a tribal school in WAC 182-30-020, 182-31-020, and 182-32-020;

- Amended WAC 182-30-010 and 182-31-010 to include school board members eligible for SEBB benefits under RCW 41.05.743.

## **2. Make other technical amendments:**

- Amended WAC 182-30-050 to include school board members and their enrollment requirements for submitting attestation and when a premium surcharge will take effect, clarified which subscribers must submit the form to the SEBB program, clarified a subscriber must provide evidence of the event when there is a change in the spouse's or state registered domestic partner's employer-based group medical, and updated subsections;
- Amended WAC 182-30-060 to include a subsection reference, to clarify when new enrollment will begin for a newly eligible school employee as described in WAC 182-31-040, and to clarify when a school employee who regains eligibility will begin enrollment and submit evidence of insurability for supplemental life insurance as described in WAC 182-31-080(3);
- Amended WAC 182-30-070 to include school employees of employer groups and the terms of payment to HCA for employer groups;
- Amended WAC 182-30-075 and 182-30-090 to update the subscriber's references;
- Amended WAC 182-30-080 and 182-32-2050 to update "flexible spending arrangement" references;
- Amended WAC 182-30-130 to update "flexible spending arrangement" reference and a WAC subsection reference;
- Amended WAC 182-30-140 to update a statute reference;
- Amended WAC 182-31-060 to add a new subsection that states school employees of employer groups are not eligible to participate in the state's salary reduction plan;
- Amended WAC 182-31-100 to include a WAC reference;
- Amended WAC 182-31-150 to include when a school board member may remove dependents, to clarify when any other subscriber must submit the required form, and to clarify when a school employee must submit a required form when enrolling a dependent in supplemental dependent life insurance or accidental death and dismemberment insurance;
- Amended WAC 182-31-160 to clarify all other subscribers submit the required forms to the SEBB program and when the changes to health plan coverage or enrollment will begin following the receipt of National Medical Support Notice.

## **3. Amend rules to improve administration of the SEBB program:**

- Amended WAC 182-30-040 to include school board members and added an exception for certain continuation coverage subscriber who is not required to make the first premium payment and applicable premium surcharges to begin the new enrollment;
- Amended the definition of "appellant," "denial," or "denial notice" in WAC 182-32-020 to include employer group;
- Amended WAC 182-32-2010 to include the appeals process for any current or former school employee of an employer group or their dependent;
- Amended WAC 182-32-2030 to include the appeal process regarding certain decisions made by an employer group and updated the request for a brief adjudicative proceeding to include a continuation coverage and school board members, and their dependent;

- Amended WAC 182-32-2040 to update the request for a brief adjudicative proceeding for a continuation coverage enrollee or school board member;
- Amended WAC 182-32-064, 182-32-2070, 182-32-2100, 182-32-2130, 182-32-2140, 182-32-2150, and 182-32-3175 to include employer group.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160; SB 5700, SSB 5275.

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

Name of Proponent: 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.

May 16, 2024  
Wendy Barcus  
Rules Coordinator

## OTS-5337.6

AMENDATORY SECTION (Amending WSR 19-14-093, filed 7/1/19, effective 8/1/19)

**WAC 182-30-010 Purpose.** The purpose of this chapter is to establish school employees benefits board (SEBB) program enrollment criteria and procedures for school employees eligible for SEBB benefits under RCW 41.05.740(6) and for school board members eligible for SEBB benefits under RCW 41.05.743.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-30-020 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Accidental death and dismemberment insurance" or "AD&D" means basic accidental death and dismemberment (AD&D) insurance paid for by the SEBB organization, as well as supplemental accidental death and dismemberment insurance offered to and paid for by school employees for themselves and their dependents.

"Annual open enrollment" means an annual event set aside for a period of time by the HCA when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. During the annual open enrollment, subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll in coverage, or waive enrollment (see definition of "waive" in this section). School employees eligible to participate in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), the (~~medical~~) flexible spending arrangement (FSA), or limited purpose FSA. They may also enroll in or opt out of the premium payment plan.

"Authority" or "HCA" means the Washington state health care authority.

"Benefits administrator" means any person or persons designated by the SEBB organization that trains, communicates, and interacts with school employees as the subject matter expert for eligibility, enrollment, and appeals for SEBB benefits.

"Board" means the school employees benefits board established under provisions of RCW 41.05.740.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all state legal holidays as set forth in RCW 1.16.050.

"Consolidated Omnibus Budget Reconciliation Act" or "COBRA" means continuation coverage as administered under 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Continuation coverage" means the temporary continuation of SEBB benefits available to enrollees under the Consolidated Omnibus Budget Reconciliation Act (COBRA), 42 U.S.C. Secs. 300bb-1 through 300bb-8, the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Secs. 4301 through 4335, or SEBB policies.

"Contracted vendor" means any person, persons, or entity under contract or agreement with the HCA to provide goods or services for the provision or administration of SEBB benefits. The term "contracted vendor" includes subcontractors of the HCA and subcontractors of any person, persons, or entity under contract or agreement with the HCA that provide goods or services for the provision or administration of SEBB benefits.

"Dependent" means a person who meets eligibility requirements in WAC 182-31-140.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 129 or other sections of the Internal Revenue Code.

"Director" means the director of the authority.

"Employer-based group health plan" means group medical, group vision, and group dental related to a current employment relationship.

It does not include medical, vision, or dental coverage available to retired employees, individual market medical or dental coverage, or government-sponsored programs such as medicare or medicaid.

"Employer-based group medical" means group medical related to a current employment relationship. It does not include medical coverage available to retired employees, individual market medical coverage, or government-sponsored programs such as medicare or medicaid.

"Employer contribution" means the funding amount paid to the HCA by a school employees benefits board (SEBB) organization for its eligible school employees as described under WAC 182-31-040 or 182-30-130.

"Employer group" means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining school employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the school employees benefits board as described in WAC 182-30-215.

"Employer group rate surcharge" means the rate surcharge described in RCW 41.05.050(2).

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-31 WAC or WAC 182-30-130, who is enrolled in SEBB benefits, and for whom applicable premium payments have been made.

"Flexible spending arrangement" or "FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Forms" or "form" means both paper forms and forms completed electronically.

"Health plan" means a plan offering medical, vision, dental, or any combination of these coverages, developed by the board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Insignificant shortfall" means a premium balance owed that is less than or equal to the lesser of \$50 or 10 percent of the premium required by the health plan as described in Treasury Regulation 26 C.F.R. 54.4980B-8.

"Large claim" means a claim of more than \$25,000 in allowed costs for services in a quarter.

"Life insurance" means basic life insurance paid for by the SEBB organization, as well as supplemental life insurance or supplemental dependent life insurance offered to and paid for by school employees for themselves and their dependents.

"Limited purpose flexible spending arrangement" or "limited purpose FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for dental and vision expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Long-term disability insurance" or "LTD insurance" means employer-paid long-term disability insurance and any employee-paid long-term disability insurance offered by the SEBB program.

~~("Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chap-~~

ter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.)

"Ongoing large claim" means a claim where the patient is expected to need ongoing case management into the next quarter for which the expected allowed cost is greater than \$25,000 in the quarter.

"PEBB" means the public employees benefits board.

"PEBB program" means the program within the HCA that administers insurance and other benefits for eligible employees (as described in WAC 182-12-114), eligible retired employees (as described in WAC 182-12-171, 182-12-180, and 182-12-211), eligible survivors (as described in WAC 182-12-180, 182-12-250, and 182-12-265), eligible dependents (as described in WAC 182-12-250 and 182-12-260), and others as defined in RCW 41.05.011 or 41.05.080 (1) (a) (ii).

"Plan year" means the time period established by the authority.

"Premium payment plan" means a benefit plan whereby school employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's medical premium contribution, due to an enrollee's tobacco use or an enrolled subscriber's spouse or state registered domestic partner choosing not to enroll in their employer-based group medical when:

- The spouse's or state registered domestic partner's share of the medical premium is less than 95 percent of the additional cost an employee would be required to pay to enroll a spouse or state registered domestic partner in the public employees benefits board (PEBB) Uniform Medical Plan (UMP) Classic; and

- The benefits have an actuarial value of at least 95 percent of the actuarial value of PEBB UMP Classic benefits.

"Salary reduction plan" means a benefit plan whereby school employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, (~~medical~~) flexible spending arrangement, limited purpose flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational district as governed by chapter 28A.310 RCW.

"School employee" means (~~(:→)~~) all employees of school districts and charter schools established under chapter 28A.710 RCW; (~~(→)~~) represented employees of educational service districts; (~~and →~~) effective January 1, 2024, all employees of educational service districts; and effective January 1, 2024, pursuant to a contractual agreement with the authority, "school employee" may also include (a) employees of employee organizations representing school employees, at the option of each such employee organization; and (b) employees of a tribal school as defined in RCW 28A.715.010, if the governing body of the tribal school seeks and receives the approval of the authority to provide any of its insurance programs by contracts with the authority, as provided in RCW 41.05.021 (1) (f) and (g).

"School employees benefits board organization" or "SEBB organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees benefits board.

"School year" means school year as defined in RCW 28A.150.203(11).

"SEBB" means the school employees benefits board.

"SEBB benefits" means one or more insurance coverages or other school employee benefits administered by the SEBB program within the HCA.

"SEBB insurance coverage" means any health plan, life insurance, accidental death and dismemberment insurance, or long-term disability insurance administered as a SEBB benefit.

"SEBB program" means the program within the HCA that administers insurance and other benefits for eligible school employees (as described in WAC 182-31-040 or 182-30-130) ~~((and))~~, eligible dependents (as described in WAC 182-31-140), and eligible school board members (as described in WAC 182-31-200).

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. During the special open enrollment subscribers may change health plans and enroll or remove dependents from coverage. Additionally, school employees may enroll in or waive enrollment (see definition of "waive" in this section). School employees eligible to participate in the salary reduction plan may enroll in or revoke their election under the DCAP, ~~((medical))~~ FSA, limited purpose FSA, or the premium payment plan and make a new election. For special open enrollment events related to specific SEBB benefits, see WAC 182-30-090, 182-30-100, 182-31-080, and 182-31-150.

"State registered domestic partner" has the same meaning as defined in RCW 26.60.020(1) and substantially equivalent legal unions from other jurisdictions as defined in RCW 26.60.090.

"Subscriber" means the school employee ~~((or))~~, continuation coverage enrollee, or school board member who has been determined eligible by the SEBB program ~~((or))~~, SEBB organization, or employer group, is enrolled in SEBB benefits, and is the individual to whom the SEBB program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of an enrollee.

"Supplemental coverage" means any life insurance or accidental death and dismemberment (AD&D) insurance coverage purchased by the school employee in addition to the coverage provided by the school employees benefits board (SEBB) organization.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, and other tobacco products. It does not include e-cigarettes or United States Food and Drug Administration (FDA) approved quit aids.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal school" has the same meaning as defined in RCW 28A.715.010.

"Waive" means an eligible school employee affirmatively declining enrollment in SEBB medical because the school employee is enrolled in other employer-based group medical, a TRICARE plan, or medicare as allowed under WAC 182-31-080. A school employee may waive enrollment in SEBB medical to enroll in PEBB medical only if they are enrolled in PEBB dental and PEBB vision. A school employee who waives enrollment



in SEBB medical to enroll in PEBB medical also waives enrollment in SEBB dental and SEBB vision.

"Week" means a seven-day period starting on Sunday and ending on Saturday.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-30-040 Premium payments and premium refunds.** School employees benefits board (SEBB) insurance coverage premiums and applicable premium surcharges for all subscribers are due as described in this section, except when a SEBB organization is correcting its enrollment error as described in WAC 182-30-060 (4) or (5).

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

Premiums and applicable premium surcharges are due from the subscriber for the entire month of SEBB insurance coverage and will not be prorated during any month.

(a) For subscribers not eligible for the employer contribution that are electing to enroll in continuation coverage as described in WAC 182-31-090, 182-31-100, 182-31-120, or 182-31-130, or electing to enroll as a school board member as described in WAC 182-31-200, 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 SEBB medical must be made to the HCA as well as premiums associated with continuing SEBB dental or vision insurance coverage. Premiums associated with life insurance coverage and accidental death and dismemberment (AD&D) 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.

**Exception:** A subscriber enrolled in continuation coverage as defined in WAC 182-30-020 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 school employees who are eligible for the employer contribution, premiums and applicable premium surcharges are due to the SEBB organization or contracted vendor. If a school employee elects supplemental coverage or employee-paid long-term disability (LTD) insurance, or is enrolled in employee-paid LTD insurance, as described in WAC 182-30-080 (1) (a) or (3) (a) or is enrolled in employee-paid LTD insurance as described in WAC 182-30-080 (1) (b) the school employee is responsible for payment of premiums from the month the supplemental coverage or employee-paid LTD insurance begins.

**Exception:** A school 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 182-31-110.

(c) Unpaid or underpaid premiums or applicable premium surcharges for all subscribers must be paid, and are due from the SEBB organization, subscriber, or a subscriber's legal representative to the HCA or the contracted 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, who is not eligible for the employer contribution, has monthly premiums or applicable premium surcharges remain unpaid for 60 days from the original due date, the subscriber's SEBB 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 up to 12 months in duration with the subscriber or the subscriber's legal representative upon request.

(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 the 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 the 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.

(2) **Premium refunds.** SEBB 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 SEBB organization any excess premiums and applicable premium surcharges paid during the 60-day adjustment period, except as indicated in WAC 182-31-120.

(b) If a SEBB subscriber, dependent, or beneficiary submits a written appeal as described in WAC 182-32-2010, 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 SEBB director, the SEBB director's designee, or the SEBB appeals unit may:

(i) Approve a refund of premiums and applicable premium surcharges that 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.

(c) 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 SEBB director or the SEBB director's designee.

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

(e) SEBB organization errors will be corrected by returning all excess premiums and applicable premium surcharges paid by the school employee or beneficiary as described in WAC 182-30-060 (4) and (5).

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-30-050 What are the requirements regarding premium surcharges?** (1) A subscriber's account will incur a premium surcharge in addition to the subscriber's monthly medical premium, when any enrollee, (~~(thirteen)~~) 13 years and older, engages in tobacco use.

(a) A subscriber must attest to whether any enrollee, (~~(thirteen)~~) 13 years and older, enrolled in their school employees benefits board (SEBB) medical engages in tobacco use. The subscriber must attest as described in (a)(i) through (~~(v)~~) (vi) of this subsection:

(i) A school employee who is newly eligible or regains eligibility for the employer contribution toward SEBB benefits must complete the required form to enroll in SEBB medical as described in WAC 182-30-080 (1) or (3). The school employee must include their attestation on that form. The school employee must submit the form to their SEBB organization. If the school employee's attestation results in a premium surcharge, it will take effect the same date as SEBB medical begins;

(ii) If there is a change in the tobacco use status of any enrollee, (~~(thirteen)~~) 13 years and older on the subscriber's SEBB medical, the subscriber must update their attestation on the required form. A school employee must submit the form to their SEBB organization. (~~(A)~~) Any other subscriber (~~(on continuation coverage)~~) must submit their (~~(updated)~~) form to the SEBB program. The attestation change will apply as follows:

- A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first of the month, the change to the surcharge begins on that day.

- A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day.

(iii) If a subscriber submits the required form to enroll a dependent, (~~(thirteen)~~) 13 years and older, in SEBB medical as described in WAC 182-31-150, the subscriber must attest for their dependent on the required form. A school employee must submit the form to their SEBB organization. (~~(A)~~) Any other subscriber (~~(on continuation coverage)~~) must submit their form to the SEBB program. A change that results in a premium surcharge will take effect the same date as SEBB medical begins;

(iv) An enrollee, (~~(thirteen)~~) 13 years and older, who elects to continue medical coverage as described in WAC 182-31-090, must provide an attestation on the required form if they have not previously attested as described in (a) of this subsection. The enrollee must submit their form to the SEBB program. An attestation that results in a premium surcharge will take effect the same date as SEBB medical begins; (~~(e)~~)

(v) A school board member who enrolls in SEBB medical as described in WAC 182-30-200, must provide an attestation on the required form. The school board member must submit their form to the SEBB program. An attestation that results in a premium surcharge will take effect the same date as SEBB medical begins; or

(vi) A school employee who previously waived SEBB medical must complete the required form to enroll in SEBB medical as described in WAC 182-31-080(3). The school employee must submit their attestation on that form. A school employee must submit the form to their SEBB or-

ganization. An attestation that results in a premium surcharge will take effect the same date as SEBB medical begins.

Note: A school employee who waives SEBB medical as described in WAC 182-31-080 is not required to provide an attestation and no premium surcharge will be applied to their account as long as the school employee remains in waived status.

(b) A subscriber's account will incur a premium surcharge when a subscriber fails to attest to the tobacco use status of all enrollees as described in (a) of this subsection.

(c) The SEBB program will provide reasonable alternatives for enrollees who use tobacco products. A subscriber can avoid the tobacco use premium surcharge if the subscriber attests on the required form that all enrollees who use tobacco products enrolled in or accessed one of the applicable reasonable alternatives offered below:

(i) An enrollee who is (~~(eighteen)~~) 18 years and older and uses tobacco products is currently enrolled in the free tobacco cessation program through their SEBB medical.

(ii) An enrollee who is (~~(thirteen)~~) 13 through (~~(seventeen)~~) 17 years old and uses tobacco products accessed the information and resources aimed at teens on the Washington state department of health's website at <https://teen.smokefree.gov>.

(iii) A subscriber may contact the SEBB program to accommodate a physician's recommendation that addresses an enrollee's use of tobacco products or for information on how to avoid the tobacco use premium surcharge.

(2) A subscriber will incur a premium surcharge, in addition to the subscriber's monthly medical premium, if an enrolled spouse or state registered domestic partner has chosen not to enroll in another employer-based group medical where the spouse's or state registered domestic partner's share of the medical premium is less than (~~(ninety-five)~~) 95 percent of the additional cost a school employee would be required to pay to enroll a spouse or state registered domestic partner in the public employees benefits board (PEBB) Uniform Medical Plan (UMP) Classic and the benefits have an actuarial value of at least (~~(ninety-five)~~) 95 percent of the actuarial value of the PEBB UMP Classic's benefits.

(a) A subscriber who enrolled a spouse or state registered domestic partner under their SEBB medical may only attest during the following times:

(i) When a subscriber becomes eligible to enroll a spouse or state registered domestic partner in SEBB medical as described in WAC 182-31-150. The subscriber must complete the required form to enroll their spouse or state registered domestic partner, and include their attestation on that form. The school employee must submit the form to their SEBB organization. (~~(A)~~) Any other subscriber (~~(on continuation coverage)~~) must submit the form to the SEBB program. If the subscriber's attestation results in a premium surcharge it will take effect the same date as SEBB medical begins.

(ii) During the annual open enrollment. A subscriber must attest if during the month prior to the annual open enrollment the subscriber was:

- Incurring the surcharge;
- Not incurring the surcharge because the spouse's or state registered domestic partner's share of the medical premium through their employer-based group medical was more than (~~(ninety-five)~~) 95 percent of the additional cost a school employee would be required to pay to enroll a spouse or state registered domestic partner in the PEBB UMP Classic; or

- Not incurring the surcharge because the actuarial value of benefits provided through the spouse's or state registered domestic partner's employer-based group medical was less than (~~ninety-five~~) 95 percent of the actuarial value of the PEBB UMP Classic's benefits.

A subscriber must update their attestation on the required form. A school employee must submit the form to their SEBB organization. ((A)) Any other subscriber (~~(on continuation coverage)~~) must submit the form to the SEBB program. The subscriber's attestation or any correction to a subscriber's attestation must be received no later than December 31st of the year in which the annual open enrollment occurs. If the subscriber's attestation results in a premium surcharge, being added or removed, the change to the surcharge will take effect January 1st of the following year.

(iii) When there is a change in the spouse's or state registered domestic partner's employer-based group medical. A subscriber must provide evidence of the event and update their attestation on the required form. A school employee must submit the form to their SEBB organization no later than (~~sixty~~) 60 days after the spouse's or state registered domestic partner's employer-based group medical status changes. ((A)) Any other subscriber (~~(on continuation coverage)~~) must submit the form to the SEBB program no later than (~~sixty~~) 60 days after the spouse's or state registered domestic partner's employer-based group medical status changes.

- A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first day of the month, the change to the premium surcharge begins on that day.

- A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first day of the month, the change to the premium surcharge begins on that day.

Exceptions:

- (1) A school employee who waives SEBB medical as described in WAC 182-31-080 is not required to provide an attestation and no premium surcharge will be applied to their account as long as the employee remains in waived status.
- (2) A school employee who covers their spouse or state registered domestic partner who has waived their own SEBB medical must attest as described in this subsection, but will not incur a premium surcharge if the school employee provides an attestation that their spouse or state registered domestic partner is eligible for SEBB medical.
- (3) A subscriber who covers their spouse or state registered domestic partner who elected not to enroll in a TRICARE plan must attest as described in this subsection, but will not incur a premium surcharge if the subscriber provides an attestation that their spouse or state registered domestic partner is eligible for a TRICARE plan.

(b) A premium surcharge will be applied to a subscriber who does not attest as described in (a) of this subsection.

AMENDATORY SECTION (Amending WSR 23-14-021, filed 6/23/23, effective 1/1/24)

**WAC 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors?** (1) A school employees benefits board (SEBB) organization or contracted vendor that makes one or more of the following enrollment errors must correct the error as described in subsections (2) through (5) of this section.

(a) Failure to timely notify a school employee of their eligibility for SEBB benefits and the employer contribution as described in WAC 182-31-030;

(b) Failure to enroll a school employee or their dependents in SEBB benefits as elected by the school employee, if the election was timely;

(c) Failure to enroll a school employee and their dependents in SEBB benefits as described in WAC 182-30-080 (1) (b) or (3) (c);

(d) Failure to accurately reflect a school employee's premium surcharge attestation on the school employee's account;

(e) Enrolling a school employee or their dependents in SEBB insurance coverage when they are not eligible as described in WAC 182-31-040 or 182-31-140 and it is clear there was no fraud or intentional misrepresentation by the school employee involved; or

(f) Providing incorrect information, via a benefits administrator or contracted vendor, regarding SEBB benefits to the school employee that they relied upon.

(2) The SEBB organization or the applicable contracted vendor must enroll the school employee and the school employee's dependents, as elected, or terminate enrollment in SEBB benefits as described in subsection (3) of this section, reconcile premium payments and applicable premium surcharges as described in subsection (4) of this section, and provide recourse as described in subsection (5) of this section.

**(3) Enrollment or termination.**

(a) SEBB medical, vision, and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (5) of this section;

**Exception:** When a school 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 SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(b) Basic life, supplemental life, basic accidental death and dismemberment (AD&D), supplemental AD&D, employer-paid long-term disability (LTD) insurance, and employee-paid LTD insurance (~~((unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1))~~) enrollment is retroactive to the first day of the month following the day the school employee became newly eligible, or the first day of the month following the date the school employee regained eligibility, as described in WAC 182-30-080;

**Exception:** When a school employee who is called to active duty in the uniformed services under USERRA loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

~~(c) Supplemental life, supplemental AD&D, and employee-paid LTD insurance enrollment is retroactive to the first day of the month following the day the school employee became newly eligible if the school employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date on the school employee's application for this coverage). If a SEBB organization enrollment error occurred when the school employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-30-080(3):~~

~~(i) Supplemental life and supplemental AD&D is enrolled the first day of the month following the date the school employee regained eligibility, at the same level of coverage the school employee continued during the period of leave, without evidence of insurability.~~

~~(ii) If the school employee was eligible to continue supplemental life insurance and supplemental AD&D insurance during the period of leave but did not, the school employee must provide evidence of insurability and receive approval from the contracted vendor.~~

~~(iii) School employees may not continue employee-paid LTD insurance while on leave without pay as described in WAC 182-31-100. Employee-paid LTD insurance is reinstated the first day of the month~~

~~following the date the school employee regains eligibility, to the level of coverage the school employee was enrolled in prior to the period of leave, without evidence of insurability.~~

~~(d)) will begin for a newly eligible school employee as described in WAC 182-31-040, and for a school employee who regains eligibility as described in WAC 182-30-080(3). A school employee who regains eligibility may need to submit evidence of insurability for supplemental life insurance as required in WAC 182-30-080(3);~~

~~(c) If the school employee is eligible and elects (or elected) to enroll in the ((medical)) flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP), enrollment is limited to 60 days prior to the date enrollment is processed, but not earlier than the current plan year. If a school employee was not enrolled in a ((medical)) FSA, limited purpose FSA, or DCAP as elected, the school employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount for the plan year by maintaining the per-pay period contribution in effect;~~

~~((e)) (d) If the school employee or their dependent was not eligible but still enrolled as described in subsection (1)(e) of this section, the employee's or their dependent's SEBB benefits will be terminated prospectively effective as of the last day of the month.~~

**(4) Premium payments.**

(a) The SEBB organization must remit to the authority the employer contribution and the school employee contribution for health plan premiums, applicable premium surcharges, basic life, basic AD&D, and employer-paid LTD insurance starting the date SEBB benefits begin as described in subsections (3) and (5)(a)(i) of this section. If a SEBB organization failed to notify a newly eligible school employee of their eligibility for SEBB benefits, the SEBB organization may only collect the school employee contribution for health plan premiums and applicable premium surcharges for coverage for the months after the school employee was notified.

(b) When a SEBB organization fails to correctly enroll the amount of employee-paid LTD insurance elected by the school employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the school employee is responsible for premiums for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premiums; and

(ii) When a premium refund is due to the school employee, the LTD insurance contracted vendor is responsible for premium refunds for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premium refunds after the 24 months of coverage and the overall refunding process to the school employee.

(c) When a SEBB organization mistakenly enrolls a school employee or their dependents as described in subsection (1)(e) of this section, premiums and any applicable premium surcharges will be refunded by the SEBB organization to the school employee without rescinding the insurance coverage.

**(5) Recourse.**

(a) A school employee who establishes eligibility ((for SEBB)) will have benefits begin((s on the first day of the month following the date eligibility is established or the first day of work for school employees who start on or before the first day of school)) as described in WAC 182-31-040. A school employee who regains eligibility for the employer contribution toward SEBB benefits will have benefits

begin as described in WAC 182-30-080(3). Dependent eligibility is described in WAC 182-31-140, and dependent enrollment is described in WAC 182-31-150. When retroactive correction of an enrollment error is limited as described in subsection (3)(b)(~~(7)~~) and (c)(~~(7) and (d)~~) of this section, the SEBB organization must work with the school employee, and receive approval from the authority, to implement retroactive SEBB benefits within the following parameters:

- (i) Retroactive enrollment in a SEBB insurance coverage;
  - (ii) Reimbursement of claims paid;
  - (iii) Reimbursement of amounts paid by the school employee or dependent for medical, vision, and dental premiums;
  - (iv) Reimbursement of amounts paid by the school employee for the premium surcharges;
  - (v) Other legal remedy received or offered; or
  - (vi) Other recourse, upon approval by the authority.
- (b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for noncovered services or in the case of an individual who is not eligible for SEBB benefits.

AMENDATORY SECTION (Amending WSR 21-13-115, filed 6/21/21, effective 1/1/22)

**WAC 182-30-070 The employer contribution is set by the health care authority (HCA) and paid to the HCA for all eligible school employees.** School employees benefits board (SEBB) organizations must pay the employer contributions to the health care authority (HCA) for SEBB insurance coverage for all eligible school employees and their enrolled dependents.

(1) Employer contributions are set by the HCA, and are subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. The employer contribution for school employees eligible under RCW 41.05.740 (6)(e) are set by the HCA.

(2) Employer contributions must include an amount determined by the HCA to pay administrative costs to administer SEBB benefits for school employees.

(3) Each school employee of a SEBB organization on leave under the federal Family and Medical Leave Act (FMLA) or the paid family medical leave program is eligible for the employer contribution as described in WAC 182-31-110.

(4) School employees of employer groups eligible under the criteria stipulated under the contract with the HCA are eligible for the employer contribution.

(5) The entire employer contribution is due and payable to HCA even if enrollment is waived as described in WAC 182-31-080, except for school employees eligible under WAC 182-30-130.

(6) The terms of payment to HCA for employer groups shall be stipulated under contract with HCA.



AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-30-075 Subscriber address requirements.** (1) All school employees must provide their school employees benefits board (SEBB) organization with their correct address and update their address if it changes. ((A)) Any other subscriber ((~~on continuation coverage~~)) must provide the SEBB program with their correct address and updates to their address if it changes.

(2) In the event of an appeal, the appellant must update their address as required in WAC 182-32-055.

AMENDATORY SECTION (Amending WSR 22-13-170, filed 6/22/22, effective 1/1/23)

**WAC 182-30-080 When must a newly eligible school employee, or a school employee who regains eligibility for the employer contribution, elect school employees benefits board (SEBB) benefits and complete required forms?** A school employee who is newly eligible or who regains eligibility for the employer contribution toward school employees benefits board (SEBB) benefits enrolls as described in this section.

(1) When a school employee is newly eligible for SEBB benefits:

(a) A school employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment provided the school employee is eligible to waive as described in WAC 182-31-080. The required forms must be returned to the school employee's SEBB organization or contracted vendor. Their SEBB organization or contracted vendor must receive the forms no later than 31 days after the school employee becomes eligible for SEBB benefits under WAC 182-31-040.

(i) The school 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 school employee's SEBB organization or contracted vendor as required. A school 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 a school 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. A school employee may enroll in supplemental accidental death and dismemberment (AD&D) insurance at anytime without evidence of insurability by submitting the required form to the contracted vendor.

(ii) School employees are enrolled in employee-paid long-term disability (LTD) insurance automatically. A school employee may elect to reduce their employee-paid LTD insurance or decline their employee-paid LTD insurance by returning the form to their SEBB organization. A school 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 SEBB organization or the contracted vendor. For a school 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 SEBB organization receives the required form requesting to reduce or de-

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

(iii) If the school employee is eligible to participate in the salary reduction plan (see WAC 182-31-060), the school employee will automatically enroll in the premium payment plan upon enrollment in SEBB medical allowing medical premiums to be taken on a pretax basis. To opt out of the premium payment plan, a new school employee must complete the required form and return it to their SEBB organization. The form must be received by their SEBB organization no later than 31 days after the employee becomes eligible for SEBB benefits.

(iv) If a school employee is eligible to participate in the salary reduction plan (see WAC 182-31-060), the school employee may enroll in the state's (~~medical~~) flexible spending arrangement (FSA), 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 SEBB benefits, the school employee must return the required form to their SEBB organization. The form must be received by the SEBB organization no later than 31 days after the school employee becomes eligible for SEBB benefits.

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

- (i) A medical plan determined by the health care authority (HCA);
- (ii) A dental plan determined by the HCA;
- (iii) A vision plan determined by the HCA;
- (iv) Basic life insurance;
- (v) Basic AD&D insurance;
- (vi) Employer-paid LTD insurance and employee-paid LTD insurance;
- (vii) Dependents will not be enrolled; and
- (viii) A tobacco use premium surcharge will be incurred as described in WAC 182-30-050 (1)(b).

(2) The employer contribution toward SEBB benefits ends according to WAC 182-31-050. When a school employee's employment ends, participation in the salary reduction plan ends.

(3) When a school employee regains eligibility for the employer contribution toward SEBB benefits, including following a period of leave as described in WAC 182-31-100(1) or 182-31-040 (4)(d), SEBB medical, dental, and vision begin the first day of the month following the school employee's return to work if the SEBB organization anticipates the school employee is eligible for the employer contribution.

Note: When a school 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 SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(a) A school employee must complete the required forms indicating their enrollment elections, including an election to waive enrollment if the school employee chooses to waive enrollment as described in WAC 182-31-080. The required forms must be returned to the school employee's SEBB organization except as described in (d) of this subsection. Forms must be received by the SEBB organization, life insurance contracted vendor, or AD&D contracted vendor, if required, no later than

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

(i) A school 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) A school 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.

(b) A school employee 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 following the date they regain eligibility for the employer contribution toward SEBB benefits.

(c) If a school employee's SEBB organization, or contracted vendor accepting forms directly, does not receive the required forms within 31 days of the school employee regaining eligibility, the school employee's enrollment for those elections not received will be as described in subsection (1) (b) (i) through (viii) of this section, except as described in (a) (i) and (b) of this subsection.

(d) If a school employee is eligible to participate in the salary reduction plan (see WAC 182-31-060), the school employee may enroll in the ((medical)) FSA, limited purpose FSA, DCAP, or both an FSA and DCAP, except as limited by subsection (4) of this section. To enroll in these SEBB benefits, the school employee must return the required form to the contracted vendor or their SEBB organization. The contracted vendor or school employee's SEBB organization must receive the form no later than 31 days after the school employee becomes eligible for SEBB benefits.

(4) If a school employee who is eligible to participate in the salary reduction plan (see WAC 182-31-060) is hired into a new position that is anticipated to be eligible for SEBB benefits in the same year, the school employee may not resume participation in a DCAP, a ((medical)) FSA, or a limited purpose FSA until the beginning of the next plan year, unless the time between employments is 30 days or less and within the current plan year. The school employee must notify the new SEBB organization of the transfer by providing the new SEBB organization the required form no later than 31 days after the school employee's first day of work with the new SEBB organization.

(5) A school employee will have uninterrupted coverage when moving from one SEBB organization to another within the same month or a consecutive month if they are eligible for the employer contribution towards SEBB benefits in the position they are leaving and are anticipated to be eligible for the employer contribution in the new position. SEBB benefits elections also remain the same when a school employee has a break in employment that does not interrupt their employer contribution toward SEBB benefits.

(6) A school employee returning to the same SEBB organization who is anticipated to work at least 630 hours in the coming school year, and who was receiving the employer contribution in August of the prior school year, will receive uninterrupted coverage from one school year to the next.

AMENDATORY SECTION (Amending WSR 23-14-020, filed 6/23/23, effective 1/1/24)

**WAC 182-30-090 When may a subscriber change health plans?** A subscriber may change health plans at the following times:

(1) **During the annual open enrollment:** A subscriber may change health plans during the school employees benefits board (SEBB) annual open enrollment period. The subscriber must submit the required enrollment forms to change their health plan. A school employee submits the enrollment forms to their SEBB organization. ((A)) Any other subscriber ((~~on continuation coverage~~)) submits the enrollment forms to the SEBB program. The required enrollment forms must be received no later than the last day of the annual open enrollment. Enrollment in the new health plan will begin January 1st of the following year.

(2) **During a special open enrollment:** A subscriber may revoke their health plan election and make a new election outside of the annual open enrollment if a special open enrollment event occurs. A special open enrollment event must be an event other than a school employee gaining initial eligibility for SEBB benefits as described in WAC 182-31-040 or regaining eligibility for SEBB benefits as described in WAC 182-30-080. The change in enrollment must be allowable under Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependent, or both.

A subscriber may not change their health plan during a special open enrollment if their state registered domestic partner or state registered domestic partner's child is not a tax dependent. A subscriber may change their health plan as described in subsection (1) of this section.

To make a health plan change, a subscriber must submit the required enrollment forms. The forms must be received no later than 60 days after the event occurs. A school employee submits the enrollment forms to their SEBB organization. ((A)) Any other subscriber ((~~on continuation coverage~~)) submits the enrollment forms to the SEBB program. In addition to the required forms, a subscriber must provide evidence of the event that created the special open enrollment. New health plan coverage will begin the first day of the month following the later of the event date or the date the form is received. If that day is the first of the month, the change in enrollment begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin the month in which the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption occurs. If the special open enrollment is due to the enrollment of an extended dependent or a dependent with a disability, the change in health plan coverage will begin the first day of the month following the later of the event date or the eligibility certification. Any one of the following events may create a special open enrollment:

(a) Subscriber acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership;

(ii) Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(b) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Subscriber has a change in employment status that affects the subscriber's eligibility for the employer contribution toward their employer-based group health plan;

(d) Subscriber has a change in employment location that affects medical plan availability. If the subscriber changes employment locations and the subscriber's current medical plan is no longer available, the subscriber must select a new medical plan as described in WAC 182-30-085(3). If the subscriber has one or more new medical plans available, the subscriber may select to enroll in a newly available plan.

(e) The subscriber's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

**Note:** As used in (e) of this subsection "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 26 C.F.R. 54.9801-6.

(f) Subscriber or a subscriber's dependent has a change in residence that affects health plan availability.

(i) If the subscriber has a change in residence and the subscriber's current medical plan is no longer available, the subscriber must select a new medical plan, as described in WAC 182-30-085(3).

(ii) If the subscriber or the subscriber's dependent has a change in residence and the subscriber's current dental plan does not have available providers within 50 miles of the subscriber or the subscriber's dependent's new residence, the subscriber may select a new dental plan.

(g) A court order requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(h) Subscriber or a subscriber's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(i) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or CHIP;

(j) Subscriber or a subscriber's dependent enrolls in coverage under medicare, or the subscriber or a subscriber's dependent loses eligibility for coverage under medicare. If the subscriber's current medical plan becomes unavailable due to the subscriber's or a subscriber's dependent's enrollment in medicare, the subscriber must select a new medical plan as described in WAC 182-30-085(2);

(k) Subscriber or a subscriber's dependent's current medical plan becomes unavailable because the subscriber or enrolled dependent is no longer eligible for a health savings account (HSA). The authority may require evidence that the subscriber or subscriber's dependent is no longer eligible for an HSA;

(l) Subscriber or a subscriber's dependent experiences a disruption of care for active and ongoing treatment that could function as a reduction in benefits for the subscriber or the subscriber's dependent. The subscriber may not change their health plan election if the subscriber's or dependent's physician stops participation with the

subscriber's health plan unless the SEBB program determines that a continuity of care issue exists. The SEBB program will consider but not limit its consideration to the following:

- (i) Active cancer treatment such as chemotherapy or radiation therapy;
  - (ii) Treatment following a recent organ transplant;
  - (iii) A scheduled surgery;
  - (iv) Recent major surgery still within the postoperative period;
- or
- (v) Treatment for a high-risk pregnancy.

(m) The SEBB program determines that there has been a substantial decrease in the providers available under a SEBB medical plan.

(3) If the school employee is having premiums taken from payroll on a pretax basis, a medical plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-30-130 What are the requirements for a school employees benefits board (SEBB) organization engaging in local negotiations regarding SEBB benefits eligibility criteria?** This section describes the terms and conditions for a school employees benefits board (SEBB) organization that is engaging in local negotiations regarding eligibility for school employees as described in RCW 41.05.740 (6) (e).

(1) A SEBB organization must provide a current ratified collective bargaining agreement (CBA) and information on all eligible school employees under the CBA to the health care authority (HCA) by the start of the school year.

(2) A SEBB organization must offer all of, and only, the following SEBB benefits to employees and their dependents:

- (a) Medical (includes the wellness incentive);
- (b) Dental;
- (c) Vision;
- (d) Basic life;
- (e) Basic accidental death and dismemberment (AD&D) insurance.

(3) A SEBB organization must provide an employer contribution as described below:

(a) The subscriber-only employer medical contribution (EMC) amount for school employees eligible under RCW 41.05.740 (6) (d) multiplied by the premium tier ratio associated with the enrollment tier selected by the school employee;

(b) One hundred percent of the cost for the school employee dental plan multiplied by the enrollment tier selected by the school employee;

(c) One hundred percent of the cost for the school employee vision plan multiplied by the enrollment tier selected by the school employee;

(d) One hundred percent of the cost for basic life and accidental death and dismemberment (AD&D) insurance;

(e) One hundred percent of the cost of the administrative fee charged by the HCA; and

(f) One hundred percent of the monthly K-12 remittance for deposit in the retired school employees' subsidy account.

(4) A SEBB organization providing SEBB benefits as described in this section may do so by group as described in (a) through (d) of this subsection:

- (a) The entire SEBB organization;
- (b) ((A)) An entire collective bargaining unit;
- (c) A group containing all nonrepresented school employees; or
- (d) A combination of (b) and (c) of this subsection.

(5) A SEBB organization must establish a threshold of anticipated work hours no less than 180 hours but less than the minimum hours to meet SEBB eligibility under WAC 182-31-040 within a school year.

(6) All of the rules in chapters 182-30, 182-31, and 182-32 WAC apply, except for all rules governing SEBB benefits that are not available to school employees whose eligibility is established under this section. The following benefits are not available to school employees whose eligibility is established under this section:

- (a) Long-term disability (LTD);
- (b) ((Medical)) Flexible spending arrangement (FSA) or limited purpose FSA;
- (c) Dependent care assistance program (DCAP);
- (d) Supplemental life insurance; and
- (e) Supplemental accidental death and dismemberment insurance.

(7) If a school employee waives medical under this section, there is no requirement to send the employer contribution to the HCA as required in WAC 182-30-070((+4)) (5).

(8) Eligibility determinations must align with the SEBB program's status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended. This means the SEBB organization may only consider school employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities, whether or not those activities qualify as essential governmental functions to be eligible.

(9) A SEBB organization providing SEBB benefits to a group of school employees under this section must notify the SEBB program each time the CBA is renegotiated.

AMENDATORY SECTION (Amending WSR 21-13-117, filed 6/21/21, effective 1/1/22)

**WAC 182-30-140 What is the process for school districts to offer optional benefits?**

(1) School districts may offer optional benefits that do not compete with any form of the basic or optional benefits offered in the school employees' benefits board (SEBB) program either under the SEBB's authority in RCW 41.05.740 or offered under the health care authority's (HCA) authority in the salary reduction plan authorized in RCW 41.05.300 and 41.05.310. Optional benefits must be paid for by the school employee without an employer contribution, except for when a school employee participates in voluntary employees' beneficiary association accounts (VEBA), which may have an employer contribution as described in RCW 28A.400.210(3). Optional benefits may include:

- (a) Emergency transportation;
- (b) Identity protection;
- (c) Legal aid;
- (d) Long-term care insurance;

- (e) Noncommercial personal automobile insurance;
  - (f) Personal homeowner's or renter's insurance;
  - (g) Pet insurance;
  - (h) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit regulated by the office of the insurance commissioner;
  - (i) Travel insurance; and
  - (j) VEBA.
- (2) Any school districts providing optional benefits must:
- (a) Report optional benefits on the form designed and communicated by the HCA; and
  - (b) Submit the form so it is received by December 1st of each year for the following calendar year as required in RCW 28A.400.280
- (2) (b).
- (3) The HCA, in consultation with the SEBB will review the optional benefits offered by school districts as described in (~~section 3, chapter 231, Laws of 2020 (HB 2458-)~~) RCW 41.05.745(2).

#### NEW SECTION

**WAC 182-30-200 Employer group application process.** This section applies to employer groups as defined in WAC 182-30-020. An employer group may apply to obtain school employees benefits board (SEBB) insurance coverage through a contract with the health care authority (HCA).

(1) Employer groups with less than 500 school employees must apply at least 60 days before the requested coverage effective date. Employer groups with 500 or more school employees but with less than 5,000 school employees must apply at least 90 days before the requested effective date.

Employer groups with 5,000 or more school employees must apply at least 120 days before the requested coverage effective date.

To apply, employer groups must submit the documents and information described in subsection (2) of this section to the SEBB program as follows:

(a) Tribal schools are required to provide the documents and information described in subsection (2) (a) through (f) of this section; and

(b) All employee organizations representing school employees, regardless of the number of school employees, will have their application approved or denied through the evaluation criteria described in WAC 182-30-210 and are required to provide the documents and information described in subsection (2) (a) through (d), (f), and (g) of this section.

(2) Documents and information required with application:

(a) A letter of application that includes the information described in (a) (i) through (iv) of this subsection:

(i) A reference to the group's authorizing statute;

(ii) A description of the organizational structure of the group and a description of the employee bargaining unit or group of nonrepresented employees for which the group is applying;

(iii) Tax identification number; and

(iv) A statement of whether the group is applying to obtain only medical or all available SEBB insurance coverages.



(b) A resolution from the group's governing body authorizing the purchase of SEBB insurance coverage.

(c) A signed governmental function attestation document that attests to the fact that employees for whom the group is applying are governmental employees whose services are substantially all in the performance of essential governmental functions.

(d) A member level census file for all of the school employees for whom the group is applying. The file must be provided in the format required by the authority and contain the following demographic data, by member, with each member classified as school employee, spouse or state registered domestic partner, or child:

(i) Employee ID (any identifier which uniquely identifies the school employee; for dependents the school employee's unique identifier must be used);

(ii) Age;

(iii) Birth sex;

(iv) First three digits of the member's zip code based on residence;

(v) Indicator of whether the school employee is active or retired, if the group is requesting to include retirees; and

(vi) Indicator of whether the member is enrolled in coverage.

(e) Historical claims and cost information that include the following:

(i) Large claims history for 24 months by quarter that excludes the most recent three months;

(ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;

(iii) Summary of historical plan costs; and

(iv) The director or the director's designee may make an exception to the claims and cost information requirements based on the size of the group, except that the current health plan does not have a case management program, then the primary diagnosis code designated by the authority must be reported for each large claimant. If the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim. If historical claims and cost information as described in (e) (i) through (iii) of this subsection are unavailable, the director or the director's designee may make an exception to allow all of the following alternative requirements:

- A letter from their carrier indicating they will not or cannot provide claims data.

- Provide information about the health plan most school employees are enrolled in by completing the actuarial calculator authorized by the SEBB program.

- Current premiums for the health plan.

(f) If the application is for a subset of the group's school employees (e.g., bargaining unit), the group must provide a member level census file of all school employees eligible under their current health plan who are not included on the member level census file in (d) of this subsection. This includes retired school employees participating under the group's current health plan. The file must include the same demographic data by member.

(g) Employer groups described in subsection (1) (b) of this section must submit to an actuarial evaluation of the group provided by an actuary designated by the SEBB program. The group must pay for the cost of the evaluation. This cost is nonrefundable. A group that is approved will not have to pay for an additional actuarial evaluation

if it applies to add another bargaining unit within two years of the evaluation. Employer groups of this size must provide the following:

- (i) Large claims history for 24 months, by quarter that excludes the most recent three months;
- (ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;
- (iii) Executive summary of benefits;
- (iv) Summary of benefits and certificate of coverage; and
- (v) Summary of historical plan costs.

**Exception:** If the current health plan does not have a case management program, then the primary diagnosis code designated by the authority must be reported for each large claimant. If the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim.

(3) The authority may automatically deny a group application if the group fails to provide the required information and documents described in this section.

#### NEW SECTION

**WAC 182-30-205 May employer groups applying for participation in school employees benefits board (SEBB) insurance coverage include their retirees?** An employer group that applies for participation in school employees benefits board (SEBB) insurance coverage under WAC 182-30-200 will have a one-time opportunity to request inclusion of retired school employees who are covered under its retiree health plan at the time of application. The retirees included will be enrolled in public employees benefits board (PEBB) retiree insurance coverage.

(1) The authority will use the following criteria to approve or deny a request to include retirees:

- (a) The employer group retiree health plan must have existed at least three years before the date of the employer group application;
- (b) Eligibility for coverage under the employer groups' retiree health plan must have required immediate enrollment in retiree health plan coverage upon termination of school employee coverage; and
- (c) The retirees must have maintained continuous enrollment in the employer group retiree health plan.

(2) If the employer group's application is for a subset of their school employees (e.g., bargaining unit) only retirees previously within the bargaining unit may be included in the transfer.

(3) Retirees and dependents included in the transfer unit are subject to the enrollment and eligibility rules outlined in chapters 182-08, 182-12, and 182-16 WAC.

(4) School employees eligible for retirement subsequent to the employer group transferring to SEBB health plan coverage must meet retiree eligibility as outlined in chapter 182-12 WAC.

(5) To protect the integrity of the risk pool, if total employer group retiree enrollment exceeds 10 percent of the total PEBB retiree population, the PEBB program may:

- (a) Stop approving inclusion of retirees with employer group transfers; or
- (b) Adopt a new rating methodology reflective of the cost of covering employer group retirees.

NEW SECTION

**WAC 182-30-210 How will the health care authority (HCA) decide to approve or deny a group application?** This section applies to employee organizations representing school employees regardless of the number of school employees. Group applications for participation in school employees benefits board (SEBB) insurance coverage provided through the SEBB program are approved or denied by the health care authority (HCA) based upon the information and documents submitted by the group and the employer group evaluation (EGE) criteria described in this rule.

(1) Groups are evaluated as a single unit. To support this requirement the group must provide a census file, as described in WAC 182-30-200 (2)(d), and additional information as described in WAC 182-30-200 (2)(g) for all school employees eligible to participate under the group's current health plan. If the group's application is for both school employees and retirees, the census file data and additional information for retired employees participating under the group's current health plan must also be included.

(a) If the group's application is only for participation of its school employees, the SEBB enrollment data used to evaluate the group will be SEBB organization school employee data.

(b) If a group's application is for participation of both its school employees and retirees, the SEBB enrollment data used to evaluate the group will include data from the public employees benefits board (PEBB) nonmedicare risk pool limited to state retiree enrollment data and state agency employee data.

(2) A group must pass the EGE criteria or the actuarial evaluation required in subsection (3) of this section as a single unit before the application can be approved. For purposes of this section, a single unit includes all school employees eligible under the group's current health plan. If the application is only for a bargaining unit, then the bargaining unit must be evaluated using the EGE criteria in addition to all eligible school employees of the group as a single unit. If the group passes the EGE criteria as a single unit, but an individual bargaining unit does not, the group may only participate if all eligible employees of the entity participate.

(3) The authority will use the following criteria to evaluate the group.

(a) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the SEBB and nonmedicare PEBB risk pool as described in subsection (1) of this section;

(b) One of the following two conditions must be met:

(i) The frequency of large claims must be less than or equal to the SEBB historical benchmark frequency for the SEBB like population within the SEBB and nonmedicare PEBB population as described in subsection (1) of this section;

(ii) The ongoing large claims management report must demonstrate that the frequency of ongoing large claims is less than or equal to the recurring benchmark frequency for the SEBB like population within the SEBB and nonmedicare PEBB population as described in subsection (1) of this section.

(c) Provide an executive summary of benefits;

(d) Provide a summary of benefits and certificate of coverage;

(e) Provide a summary of historical plan costs; and

(f) The evaluation of criteria in (c), (d), and (e) of this subsection must indicate that the historical cost of benefits for the group is equal to or less than the historical cost of the PEBB like population within the nonmedicare population as described in subsection (1) of this section for a comparable plan design.

(4) An approved group application is valid for 365 calendar days after the date the application is approved by the authority. If a group applies to add additional bargaining units after the 365 calendar day period has ended, the group must be reevaluated.

(5) An entity whose group application is denied may appeal the authority's decision to the SEBB appeals unit through the process described in WAC 182-32-2060.

(6) An entity whose group application is approved may purchase insurance for its employees under the participation requirements described in WAC 182-30-215.

#### NEW SECTION

**WAC 182-30-215 Employer group participation requirements.** This section applies to an employer group as defined in WAC 182-30-020 that is approved to purchase insurance for its employees through a contract with the health care authority (HCA).

(1) Prior to enrollment in school employees benefits board (SEBB) insurance coverage the employer group must:

(a) Remit to the authority the required start-up fee in the amount publicized by the SEBB program;

(b) Sign a contract with the authority;

(c) Determine employee and dependent eligibility and terms of enrollment for SEBB insurance coverage by the criteria outlined in this chapter and chapter 182-31 WAC unless otherwise approved by the authority in the employer group's contract with the authority;

(d) Determine eligibility in order to ensure the SEBB program's continued status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended. This means the employer group may only consider employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities, whether or not those activities qualify as essential governmental functions to be eligible; and

(e) Ensure SEBB insurance coverage is the only employer-sponsored coverage available to groups of employees eligible for SEBB insurance coverage under the contract.

(2) Pay premiums under its contract with the authority. The premium rate structure for employer groups will be a tiered rate based on health plan election and family enrollment. Employer groups must collect an amount equal to the premium surcharges applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

(3) If an employer group wants to make subsequent changes to the contract, the changes must be submitted to the authority for approval.

(4) The employer group must maintain participation in SEBB insurance coverage for at least one full year. An employer group may only end participation at the end of a plan year unless the authority approves a mid-year termination. To end participation, an employer group must provide written notice to the SEBB program at least 60 days be-

fore the requested termination date. If an employer group terminates participation in SEBB insurance coverage, they must:

(a) Notify all their school employees and dependents who are enrolled in SEBB insurance coverage 45 days prior to the employer group's date of termination; and

(b) Retirees enrolled in PEBB retiree insurance coverage must be notified 45 days prior to the employer group's date of termination.

(5) Upon approval to purchase insurance through a contract with the authority, the employer group must provide a list of school employees and dependents that are enrolled in Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage and the remaining number of months available to them based on their qualifying event. These school employees and dependents may enroll in a SEBB health plan as COBRA subscribers for the remainder of the months available to them based on their qualifying event.

(6) Enrollees in SEBB insurance coverage under one of the continuation of coverage provisions allowed under chapter 182-31 WAC or retirees included in the transfer unit as allowed under WAC 182-30-205 cease to be eligible as of the last day of the contract and may not continue enrollment beyond the end of the month in which the contract is terminated.

**Exception:** If an employer group ends participation, retired and disabled school employees who are enrolled in public employees benefits board (PEBB) retiree insurance coverage cease to be eligible under WAC 182-12-171, but may continue health plan enrollment as described in WAC 182-12-232.

(7) Employer groups that enter 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 or disabled employees who continue their participation in insurance plans and contracts under WAC 182-12-232.

(a) For each of the employer group's retired or disabled employees who will be continuing their participation, the authority shall determine the one-time payment by:

(i) Calculating the difference in cost between the rate charged to retired or disabled employees as described in RCW 41.05.080(2); and

(ii) The actuarially determined value of the medical benefits for retired and disabled employees who are not eligible for parts A and B of medicare; and

(iii) Multiplying that difference by the number of months until the retired or disabled employee would become eligible for medicare.

(b) Employer groups shall not be entitled to any refund of the amount paid to the authority as described in this subsection.

(8) Employer groups eligible for SEBB benefits are subject to the terms and conditions set forth by the HCA. Employer groups are subject to the same rules as SEBB organizations in chapters 182-30, 182-31, and 182-32 WAC, except for rules governing SEBB benefits that are not available to school employees of an employer group.

(9) School employees of an employer group are subject to the same rules as school employees of a SEBB organization in chapters 182-30, 182-31, and 182-32 WAC, except for rules governing SEBB benefits that are not available to school employees of an employer group.

**OTS-5356.2**

AMENDATORY SECTION (Amending WSR 19-14-093, filed 7/1/19, effective 8/1/19)

**WAC 182-31-010 Purpose.** The purpose of this chapter is to establish school employees benefits board (SEBB) eligibility criteria for and the effective date of enrollment in SEBB approved benefits. The rules within this chapter are applicable for school employees eligible for SEBB benefits under RCW 41.05.740(6) and for school board members eligible for SEBB benefits under RCW 41.05.743.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-31-020 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Accidental death and dismemberment insurance" or "AD&D" means basic accidental death and dismemberment (AD&D) insurance paid for by the SEBB organization, as well as supplemental accidental death and dismemberment insurance offered to and paid for by school employees for themselves and their dependents.

"Annual open enrollment" means an annual event set aside for a period of time by the HCA when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. During the annual open enrollment, subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll in coverage, or waive enrollment (see definition of "waive" in this section). School employees eligible to participate in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), the (~~medical~~) flexible spending arrangement (FSA), or limited purpose FSA. They may also enroll in or opt out of the premium payment plan.

"Authority" or "HCA" means the Washington state health care authority.

"Board" means the school employees benefits board established under provisions of RCW 41.05.740.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all state legal holidays as set forth in RCW 1.16.050.

"Consolidated Omnibus Budget Reconciliation Act" or "COBRA" means continuation coverage as administered under 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Continuation coverage" means the temporary continuation of SEBB benefits available to enrollees under the Consolidated Omnibus Budget Reconciliation Act (COBRA), 42 U.S.C. Secs. 300bb-1 through 300bb-8, the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. Secs. 4301 through 4335, or SEBB policies.

"Contracted vendor" means any person, persons, or entity under contract or agreement with the HCA to provide goods or services for the provision or administration of SEBB benefits. The term "contracted vendor" includes subcontractors of the HCA and subcontractors of any person, persons, or entity under contract or agreement with the HCA that provide goods or services for the provision or administration of SEBB benefits.

"Dependent" means a person who meets eligibility requirements in WAC 182-31-140.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 129 or other sections of the Internal Revenue Code.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, electronic mail, electronic files, or other printed or written items.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employer-based group health plan" means group medical, group vision, and group dental related to a current employment relationship. It does not include medical, vision, or dental coverage available to retired employees, individual market medical or dental coverage, or government-sponsored programs such as medicare or medicaid.

"Employer-based group medical" means group medical related to a current employment relationship. It does not include medical coverage available to retired employees, individual market medical coverage, or government-sponsored programs such as medicare or medicaid.

"Employer contribution" means the funding amount paid to the HCA by a school employees benefits board (SEBB) organization for its eligible school employees as described under WAC 182-30-130 and 182-31-040.

"Employer group" means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining school employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the school employees benefits board as described in WAC 182-30-215.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-31 WAC or WAC 182-30-130, who is enrolled in school employees benefits board (SEBB) benefits, and for whom applicable premium payments have been made.

"Flexible spending arrangement" or "FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Forms" or "form" means both paper forms and forms completed electronically.

"Health plan" means a plan offering medical, vision, dental, or any combination of these coverages, developed by the board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Layoff," for purposes of this chapter, means a change in employment status due to a SEBB organization's lack of funds or a SEBB organization's organizational change.

"Life insurance" means basic life insurance paid for by the SEBB organization, as well as supplemental life insurance or supplemental dependent life insurance offered to and paid for by school employees for themselves and their dependents.

"Limited purpose flexible spending arrangement" or "limited purpose FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for dental and vision expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Long-term disability insurance" or "LTD insurance" means employer-paid long-term disability insurance and employee-paid long-term disability insurance offered by the SEBB program.

~~("Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.)~~

"PEBB" means the public employees benefits board.

"PEBB program" means the program within the HCA that administers insurance and other benefits for eligible employees (as described in WAC 182-12-114), eligible retired employees (as described in WAC 182-12-171, 182-12-180, and 182-12-211), eligible survivors (as described in WAC 182-12-180, 182-12-250, and 182-12-265), eligible dependents (as described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011 and 41.05.080 (1) (a) (ii).

"Plan year" means the time period established by the authority.

"Premium payment plan" means a benefit plan whereby school employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's medical premium contribution, due to an enrollee's tobacco use or an enrolled subscriber's spouse or state registered domestic partner choosing not to enroll in their employer-based group medical when:

- The spouse's or state registered domestic partner's share of the medical premium is less than 95 percent of the additional cost an employee would be required to pay to enroll a spouse or state registered domestic partner in the public employees benefits board (PEBB) Uniform Medical Plan (UMP) Classic; and

- The benefits have an actuarial value of at least 95 percent of the actuarial value of PEBB UMP Classic benefits.

"Salary reduction plan" means a benefit plan whereby school employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, ~~((medical))~~ flexible spending arrangement, limited purpose flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational service district as governed by chapter 28A.310 RCW.

"School employee" means ~~((:→))~~ all employees of school districts and charter schools established under chapter 28A.710 RCW; ~~((→))~~ represented employees of educational service districts; ~~((and→))~~ effective January 1, 2024, all employees of educational service districts; and effective January 1, 2024, pursuant to a contractual agreement with the authority, "school employee" may also include (a) employees of employee organizations representing school employees, at the option of each such employee organization; and (b) employees of a tribal school as defined in RCW 28A.715.010, if the governing body of the tribal school seeks and receives the approval of the authority to provide any of its insurance programs by contracts with the authority, as provided in RCW 41.05.021 (1) (f) and (g).



"School employees benefits board organization" or "SEBB organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees benefits board.

"School year" means school year as defined in RCW 28A.150.203(11).

"SEBB" means the school employees benefits board.

"SEBB benefits" means one or more insurance coverages or other school employee benefits administered by the SEBB program within the HCA.

"SEBB insurance coverage" means any health plan, life insurance, accidental death and dismemberment insurance, or long-term disability insurance administered as a SEBB benefit.

"SEBB program" means the program within the HCA that administers insurance and other benefits for eligible school employees (as described in WAC 182-31-040 or 182-30-130) ~~((and))~~, eligible dependents (as described in WAC 182-31-140), and eligible school board members (as described in WAC 182-31-200).

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. During the special open enrollment subscribers may change health plans and enroll or remove dependents from coverage. Additionally, school employees may enroll in or waive enrollment (see definition of "waive" in this section). School employees eligible to participate in the salary reduction plan may enroll in or revoke their election under the DCAP, ~~((medical))~~ FSA, limited purpose FSA, or the premium payment plan and make a new election. For special open enrollment events related to specific SEBB benefits, see WAC 182-30-090, 182-30-100, 182-31-080, and 182-31-150.

"State registered domestic partner" has the same meaning as defined in RCW 26.60.020(1) and substantially equivalent legal unions from other jurisdictions as defined in RCW 26.60.090.

"Subscriber" means the school employee ~~((or))~~, continuation coverage enrollee, or school board member who has been determined eligible by the SEBB program ~~((or))~~, SEBB organization, or employer group, is enrolled in SEBB benefits, and is the individual to whom the SEBB program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of an enrollee.

"Supplemental coverage" means any life insurance or accidental death and dismemberment (AD&D) insurance coverage purchased by the school employee in addition to the coverage provided by the school employees benefits board (SEBB) organization.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, and other tobacco products. It does not include e-cigarettes or United States Food and Drug Administration (FDA) approved quit aids.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal school" has the same meaning as defined in RCW 28A.715.010.

"Waive" means an eligible school employee affirmatively declining enrollment in SEBB medical because the school employee is enrolled in

other employer-based group medical, a TRICARE plan, or medicare as allowed under WAC 182-31-080. A school employee may waive enrollment in SEBB medical to enroll in PEBB medical only if they are enrolled in PEBB dental and PEBB vision. A school employee who waives enrollment in SEBB medical to enroll in PEBB medical also waives enrollment in SEBB dental and SEBB vision.

"Week" means a seven-day period starting on Sunday and ending on Saturday.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-31-060 Who is eligible to participate in the salary reduction plan?** (1) School employees eligible for the employer contribution toward school employees benefits board (SEBB) benefits are eligible to participate in the premium payment plan under the state's salary reduction plan. School employees eligible for SEBB benefits as described in WAC 182-31-040 may also elect to participate in the (~~medical~~) FSA, limited purpose FSA, or DCAP programs provided they elect participation within the time frames described in WAC 182-30-100.

(2) School employees of employer groups, as defined in WAC 182-31-020, are not eligible to participate in the state's salary reduction plan.

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-31-100 What options for continuation coverage are available to school employees and their dependents during certain types of leave or when employment ends due to a layoff?** School employees who have established eligibility for school employees benefits board (SEBB) benefits as described in WAC 182-31-040 may continue coverage for themselves and their dependents during certain types of leave or when their employment ends due to a layoff.

(1) School employees who are no longer eligible for the employer contribution toward SEBB benefits due to an event described in (b) (i) through (v) of this subsection may continue coverage by self-paying the premium and applicable premium surcharges set by the health care authority (HCA) from the date eligibility for the employer contribution is lost:

(a) School employees may continue any combination of medical, dental, or vision, and may also continue life insurance and accidental death and dismemberment (AD&D) insurance. If life insurance or AD&D insurance is elected, both basic life and basic AD&D insurance must be continued. School employees who continue basic life insurance and basic AD&D insurance may also continue supplemental life and AD&D insurance;

(b) School employees in the following circumstances who lose their eligibility for the employer contribution toward SEBB benefits qualify to continue coverage under this subsection:

(i) School employees who are on authorized leave without pay;

(ii) School employees who are receiving time-loss benefits under workers' compensation;

(iii) School employees who are called to active duty in the uniformed services as defined under USERRA;

(iv) School employees whose employment ends due to a layoff as defined in WAC 182-31-020; and

(v) School employees who are applying for disability retirement.

(c) The school employee's elections must be received by the SEBB program no later than (~~sixty~~) 60 days from the date the school employee's SEBB health plan coverage ended or from the postmark date on the election notice sent by the SEBB program, whichever is later;

(d) School employees may self-pay for a maximum of (~~twenty-nine~~) 29 months. The school employee's first premium payment and applicable premium surcharges are due no later than (~~forty-five~~) 45 days after the election period ends as described in (c) of this subsection, except as described in WAC 182-30-040 (1)(a).

Premiums and applicable premium surcharges associated with continuing SEBB medical, must be made to the HCA as well as premiums associated with continuing SEBB dental and vision insurance coverage. Premiums associated with continuing life insurance coverage or AD&D insurance coverage must be made to the contracted vendor. Following the school employee's first premium payment, the school employee must pay the premium amounts for SEBB insurance coverage and applicable premium surcharges as premiums become due; and

(e) If the school employee's monthly premium or applicable premium surcharges remain unpaid for (~~sixty~~) 60 days from the original due date, the school employee's SEBB 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 182-30-040 (1)(c).

(2) The number of months that school employees self-pay the premium while eligible as described in subsection (1) of this section will count toward the total months of continuation coverage allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). School employees who are no longer eligible for continuation coverage as described in subsection (1) of this section but who have not used the maximum number of months allowed under COBRA coverage may continue medical, dental, vision, or any combination of them for the remaining difference in months by self-paying the premium and applicable premium surcharges as described in WAC 182-31-090.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-31-150 When may subscribers enroll or remove eligible dependents?** (1) **Enrolling dependents in school employees benefits board (SEBB) health plan coverage, supplemental dependent life insurance, and accidental death and dismemberment (AD&D) insurance.** A dependent must be enrolled in the same health plan coverage as the subscriber, and the subscriber must be enrolled in health plan coverage to enroll their dependent in health plan coverage. A dependent with more than one source of eligibility for enrollment in the public employees benefits board (PEBB) and SEBB programs is limited to a single enrollment in medical, dental, and vision plans in either the PEBB or SEBB program. Subscribers must satisfy the enrollment requirements as

described in subsection (4) of this section and may enroll eligible dependents at the following times:

(a) **When the subscriber becomes eligible** and enrolls in SEBB benefits. If eligibility is verified the dependent's effective date will be as follows:

(i) SEBB health plan coverage will be the same as the subscriber's effective date;

(ii) Supplemental dependent life insurance or AD&D insurance, if elected, will be effective the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(b) **During the annual open enrollment.** SEBB health plan coverage begins January 1st of the following year;

(c) **During special open enrollment.** Subscribers may enroll dependents during a special open enrollment as described in subsection (3) of this section;

(d) **When a National Medical Support Notice (NMSN)** requires a subscriber to cover a dependent child in health plan coverage as described in WAC 182-31-160; or

(e) **Any time during the calendar year for supplemental dependent life insurance or AD&D insurance** by submitting the required form to the contracted vendor for approval. Evidence of insurability may be required for supplemental dependent life insurance but will not be required for supplemental AD&D insurance. Supplemental dependent life insurance or AD&D insurance will be effective the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(2) **Removing dependents from SEBB health plan coverage or supplemental dependent life insurance or AD&D insurance.**

(a) **A dependent's eligibility for enrollment in SEBB health plan coverage or supplemental dependent life insurance or AD&D insurance ends the last day of the month the dependent** meets the eligibility criteria as described in WAC 182-31-140. Subscribers must provide notice when a dependent is no longer eligible due to divorce, annulment, dissolution, or qualifying event of dependent ceasing to be eligible as a dependent child as described in WAC 182-31-140(3). For supplemental dependent life insurance or AD&D insurance, subscribers must notify the contracted vendor on the required form, in writing, or by telephone when a dependent is no longer eligible. Contact information for the contracted vendor may be found at [hca.wa.gov/sebb-employee-contact-plan](http://hca.wa.gov/sebb-employee-contact-plan). For SEBB health plan coverage, the notice must be received within 60 days of the last day of the month the dependent loses eligibility. School employees must notify their SEBB organization when a dependent is no longer eligible for SEBB health plan coverage, except as required under WAC 182-31-140 (3)(f)(ii). All other subscribers must notify the SEBB program. Consequences for not submitting notice within the required 60 days include, but are not limited to:

(i) The dependent may lose eligibility to continue SEBB medical, dental, or vision under one of the continuation coverage options described in WAC 182-31-130;

(ii) The subscriber may be billed for claims paid by the health plan for services that were rendered after the dependent lost eligibility as described in WAC 182-31-130;

(iii) The subscriber may not be able to recover subscriber-paid insurance premiums for dependents that lost their eligibility; and

(iv) The subscriber may be responsible for premiums paid by the state for the dependent's health plan coverage after the dependent lost eligibility.

**(b) School employees have the opportunity to remove eligible dependents:**

(i) During the annual open enrollment. The dependent will be removed from SEBB health plan coverage the last day of December;

(ii) During a special open enrollment as described in subsections (3) and (4)(f) of this section;

(iii) When a NMSN requires a spouse, former spouse, or other individual to provide health plan coverage for a dependent who is already enrolled in SEBB coverage, and that health plan coverage is in fact provided as described in WAC 182-31-160(2); or

(iv) Any time during the calendar year from supplemental dependent life insurance or AD&D insurance by submitting a request to the contracted vendor on the required form, in writing, or by telephone. Contact information for the contracted vendor may be found at [hca.wa.gov/sebb-employee-contact-plan](http://hca.wa.gov/sebb-employee-contact-plan).

**(c) Enrollees with SEBB continuation coverage as described in WAC 182-31-090 and 182-31-100, or a school board member as described in WAC 182-31-200 may remove dependents** from their SEBB health plan coverage outside of the annual open enrollment or a special open enrollment by providing written notice to the SEBB program. The dependent will be removed from the subscriber's SEBB health plan coverage prospectively. SEBB health plan coverage will end on the last day of the month in which the written notice is received by the SEBB program or on the last day of the month specified in the subscriber's written notice, whichever is later. If the written notice is received on the first day of the month, SEBB health plan coverage will end on the last day of the previous month. SEBB continuation coverage enrollees may remove dependents from supplemental dependent life insurance or AD&D insurance any time during the calendar year by submitting a request to the contracted vendor on the required form, in writing, or by telephone. Contact information for the contracted vendor may be found at [hca.wa.gov/sebb-employee-contact-plan](http://hca.wa.gov/sebb-employee-contact-plan).

**(3) Special open enrollment.**

(a) Subscribers may enroll or remove their eligible dependents outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must be allowable under the Internal Revenue Code and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependents, or both.

(i) SEBB health plan coverage will begin the first of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the change in enrollment begins on that day.

(ii) SEBB health plan coverage for an extended dependent or a dependent with a disability will begin the first day of the month following the later of the event date or eligibility certification.

(iii) The dependent will be removed from the subscriber's SEBB health plan coverage the last day of the month following the later of the event date or the date the required form and proof of the event is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(iv) If the special open enrollment is due to the birth or adoption of a child, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of a child, SEBB health plan coverage will begin or end as follows:

- For the newly born child, SEBB health plan coverage will begin the date of birth;
- For a newly adopted child, SEBB health plan coverage will begin on the date of placement or the date a legal obligation is assumed in anticipation of adoption, whichever is earlier;
- For a spouse or state registered domestic partner of a subscriber, SEBB health plan coverage will begin the first day of the month in which the event occurs. The spouse or state registered domestic partner will be removed from SEBB health plan coverage the last day of the month in which the event occurred.

(v) Supplemental dependent life insurance or AD&D insurance will begin the first day of the month following the date the contracted vendor receives the required form or approves the enrollment. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage is effective.

(b) The events described in this subsection (3)(b)(i) of this section create a special open enrollment to enroll eligible dependents in supplemental dependent life insurance or AD&D insurance. Any one of the following events may create a special open enrollment to enroll or remove eligible dependents from SEBB health plan coverage:

- (i) Subscriber acquires a new dependent due to:
  - Marriage or registering a state registered domestic partnership;
  - Birth, adoption, or when a subscriber has assumed a legal obligation for total or partial support in anticipation of adoption; or
  - A child becoming eligible as an extended dependent through legal custody or legal guardianship.

(ii) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iii) Subscriber has a change in employment status that affects the subscriber's eligibility for their employer contribution toward their employer-based group health plan;

(iv) The subscriber's dependent has a change in their own employment status that affects their eligibility or their dependent's eligibility for the employer contribution under their employer-based group health plan;

Note: As used in (iv) of this subsection "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 54.9801-6.

(v) Subscriber or a subscriber's dependent has a change in enrollment under an employer-based group health plan during its annual open enrollment that does not align with the SEBB program's annual open enrollment;

(vi) Subscriber's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States and that change in residence results in the dependent losing their health insurance;

(vii) A court order requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former state registered domestic partner is not an eligible dependent);

(viii) Subscriber or a subscriber's dependent enrolls in coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(ix) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or CHIP;

(x) Subscriber's dependent enrolls in medicare, or loses eligibility for medicare.

**(4) Enrollment requirements. A subscriber must submit the required forms within the time frames described in this subsection.** For SEBB health plan coverage, a school employee must submit the required forms to their SEBB organization, ~~((a))~~ any other subscriber ~~((on con-~~  
~~tinuation coverage))~~ must submit the required forms to the SEBB program. In addition to the required forms indicating dependent enrollment, the subscriber must provide the required documents as evidence of the dependent's eligibility; or as evidence of the event that created the special open enrollment. All required forms and documents must be received within the required time frames. A school employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval within the required time frames.

Note: When enrolling a state registered domestic partner or a state registered domestic partner's child, a subscriber must certify that the state registered domestic partner or state registered domestic partner's child is a tax dependent on the required form; otherwise, the SEBB program will assume the state registered domestic partner or state registered domestic partner's child is not a tax dependent.

(a) If a subscriber wants to enroll their eligible dependents in SEBB health plan coverage ~~((or supplemental dependent life insurance or AD&D insurance))~~ when the subscriber becomes eligible to enroll in SEBB benefits, the subscriber must include the dependent's enrollment information on the required forms and submit them within the required time frame as described in WAC 182-30-060 ~~((and)),~~ 182-30-080, or 182-31-200. If a school employee enrolls a dependent in supplemental dependent life insurance or AD&D insurance, the required form must be submitted within the required time frame described in WAC 182-30-080.

(b) If a subscriber wants to enroll eligible dependents in SEBB health plan coverage during the SEBB annual open enrollment period, the required forms must be received no later than the last day of the annual open enrollment.

(c) If a subscriber wants to enroll newly eligible dependents, the required forms must be received no later than 60 days after the dependent becomes eligible. A school employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval. A school employee may enroll a dependent in supplemental dependent life insurance up to the guaranteed issue coverage amount without evidence of insurability if the required form is submitted to the contracted vendor as required. Evidence of insurability will be required for supplemental dependent life insurance over the guaranteed issue coverage amount. Evidence of insurability is not required for supplemental AD&D insurance.

(d) If a subscriber wants to enroll a newborn or child whom the subscriber has adopted or has assumed a legal obligation for total or partial support in anticipation of adoption in SEBB health plan coverage, the subscriber should notify the SEBB program by submitting the required forms as soon as possible to ensure timely payment of claims. If adding the child increases the premium, the required forms must be received no later than 60 days after the date of the birth, adoption,

or the date the legal obligation is assumed for total or partial support in anticipation of adoption. A school employee enrolling a dependent in supplemental dependent life insurance or AD&D insurance must submit the required form to the contracted vendor for approval no later than 60 days after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption. A newly born child must be at least 14 days old before supplemental dependent life insurance or AD&D insurance coverage can become effective.

(e) If the subscriber wants to enroll a child age 26 or older as a child with a disability in SEBB health plan coverage, the required forms must be received no later than 60 days after the child reaches age 26 or within the relevant time frame described in (a), (b), and (f) of this subsection. To recertify an enrolled child with a disability, the required forms must be received by the SEBB program or the contracted vendor by the child's scheduled SEBB health plan coverage termination date.

(f) If the subscriber wants to change a dependent's enrollment status in SEBB health plan coverage during a special open enrollment, the required forms must be received no later than 60 days after the event that creates the special open enrollment.

(g) A school employee may enroll a dependent in supplemental dependent life insurance or AD&D insurance at any time during the calendar year by submitting the required form to the contracted vendor for approval. Evidence of insurability may be required for supplemental dependent life insurance but will not be required for supplemental AD&D insurance.

AMENDATORY SECTION (Amending WSR 21-13-115, filed 6/21/21, effective 1/1/22)

**WAC 182-31-160 National Medical Support Notice (NMSN).** (1) When a National Medical Support Notice (NMSN) requires a subscriber to provide health plan coverage for a dependent child the following provisions apply:

(a) The subscriber may enroll their dependent child and request changes to their health plan coverage as described under (c) of this subsection. School employees submit the required forms to their school employees benefits board (SEBB) organization. All other subscribers (~~(on continuation coverage)~~) submit the required forms to the SEBB program;

(b) If the subscriber fails to request enrollment or health plan coverage changes as directed by the NMSN, the SEBB organization or the SEBB program may make enrollment or health plan coverage changes according to (c) of this subsection upon request of:

- (i) The child's other parent; or
- (ii) Child support enforcement program.

(c) Changes to health plan coverage or enrollment are allowed as directed by the NMSN:

(i) The dependent will be enrolled under the subscriber's health plan coverage as directed by the NMSN;

(ii) A school employee who has waived SEBB medical as described in WAC 182-31-080 will be enrolled in medical as directed by the NMSN, in order to enroll the dependent;



(iii) The subscriber's selected health plan will be changed if directed by the NMSN;

(iv) If the dependent is already enrolled under another SEBB subscriber, the dependent will be removed from the other health plan coverage and enrolled as directed by the NMSN;

(v) If the dependent is enrolled in both public employees benefits board medical and SEBB medical as a dependent as described in WAC 182-31-070 (6)(f) and there is a NMSN in place, enrollment will be in accordance with the NMSN; or

(vi) If the subscriber is eligible for and elects Consolidated Omnibus Budget Reconciliation Act (COBRA) or other continuation coverage, the NMSN will be enforced and the dependent must be covered in accordance with the NMSN.

(d) Changes to health plan coverage or enrollment as described in (c)(i) through (iii) of this subsection will begin the first day of the month following receipt by the SEBB organization or the SEBB program of the NMSN. If the NMSN is received (~~by the SEBB organization~~) on the first day of the month, the change to health plan coverage or enrollment begins on that day. A dependent will be removed from the subscriber's health plan coverage as described in (c)(iv) of this subsection the last day of the month the NMSN is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(2) When a NMSN requires a spouse, former spouse, or other individual to provide health plan coverage for a dependent who is already enrolled in SEBB coverage, and that health plan coverage is in fact provided, the dependent may be removed from the subscriber's SEBB health plan coverage prospectively.

#### NEW SECTION

##### **WAC 182-31-200 School board members participation requirements.**

This section applies to school board members as defined in WAC 182-31-020. A school board member may enroll in health plans offered by the school employees benefits board (SEBB) by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). A school board member must enroll in SEBB medical, SEBB dental, and SEBB vision.

(1) Newly elected school board members must submit their required forms to the SEBB program, and they must be received no later than 60 days from the beginning of their elected or appointed term. The first premium payment and applicable premium surcharges must be received no later than 45 days after the 60-day election period ends. The school board member's SEBB health plan coverage will begin the first day of the month following the day the SEBB program receives the required forms.

(2) If the school board member elects to enroll a dependent in SEBB health plan coverage, the dependent will be enrolled in the same SEBB medical, SEBB dental, and SEBB vision plans as the school board member.

(3) A school board member may participate in SEBB health plan coverage for the duration of their elected term as a school board member as long as:

(a) Premiums and applicable premium surcharges continue to be paid as described in WAC 182-30-040; and

(b) May renew their participation at the start of each subsequent term as a school board member. If a school board member is reelected for a new term consecutive from their previous term, the school board member will not be required to make new elections.

(4) If a school board member is terminated due to no longer paying the premium and applicable premium surcharges as described in WAC 182-30-040 (1)(c) or requests to voluntarily terminate their enrollment in SEBB health plan coverage prior to the end of their elected term, they are no longer eligible under this section to participate in SEBB health plan coverage for the remainder of their elected term. Those who request to voluntarily terminate their SEBB health plan coverage must do so in writing. SEBB health plan coverage will end on the last day of the month in which the SEBB program receives the termination request or on the last day of the month specified in the school board member's termination request, whichever is later. If the termination request is received on the first day of the month, SEBB health plan coverage will end on the last day of the previous month.

## OTS-5358.2

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-020 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Accidental death and dismemberment insurance" or "AD&D" means basic accidental death and dismemberment (AD&D) insurance paid for by the SEBB organization, as well as supplemental accidental death and dismemberment insurance offered to and paid for by school employees for themselves and their dependents.

"Appellant" means a person who requests a brief adjudicative proceeding with the SEBB appeals unit about the action of the SEBB organization, employer group, the HCA, or its contracted vendor.

"Authority" or "HCA" means the Washington state health care authority.

"Board" means the school employees benefits board established under provisions of RCW 41.05.740.

"Brief adjudicative proceeding" means the process described in RCW 34.05.482 through 34.05.494 and in WAC 182-32-2000 through 182-32-2160.

"Business days" means all days except Saturdays, Sundays, and all state legal holidays as set forth in RCW 1.16.050.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all state legal holidays as set forth in RCW 1.16.050.

"Continuance" means a change in the date or time of when a brief adjudicative proceeding or formal administrative hearing will occur.

"Contracted vendor" means any person, persons, or entity under contract or agreement with the HCA to provide goods or services for the provision or administration of SEBB benefits. The term "contracted vendor" includes subcontractors of the HCA and subcontractors of any person, persons, or entity under contract or agreement with the HCA

that provide goods or services for the provision or administration of SEBB benefits.

"Denial" or "denial notice" means an action by, or communication from, a school employees benefits board (SEBB) organization, employer group, contracted vendor, or the SEBB program that aggrieves a subscriber, a dependent, or an applicant, with regard to SEBB benefits including, but not limited to, actions or communications expressly designated as a "denial," "denial notice," or "cancellation notice."

"Dependent" means a person who meets eligibility requirements in WAC 182-31-140.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 129 or other sections of the Internal Revenue Code.

"Director" means the director of the authority.

"Dispositive motion" is a motion made to a presiding officer, reviewing officer, or hearing officer to decide a claim or case in favor of the moving party without further proceedings.

"Documents" means papers, letters, writings, electronic mail, electronic files, or other printed or written items.

"Employer-based group medical" means group medical related to a current employment relationship. It does not include medical coverage available to retired employees, individual market medical coverage or government-sponsored programs such as medicare or medicaid.

"Employer group" means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining school employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the school employees benefits board as described in WAC 182-30-215.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-31 WAC or WAC 182-30-130, who is enrolled in SEBB benefits, and for whom applicable premium payments have been made.

"File" or "filing" means the act of delivering documents to the office of the presiding officer, reviewing officer, or hearing officer. A document is considered filed when it is received by the authority or its designee. A document may be filed by one or more of the following:

- Personal delivery to the authority at Cherry Street Plaza, 626 8th Avenue S.E., Olympia, Washington 98501;
- First class, registered, or certified mail to the authority to the following mailing address:

Health Care Authority  
Attn: SEBB Appeals Unit  
P.O. Box 45504  
Olympia, WA 98504-5504;

- Fax: 360-763-4709; or
- Submission online through the designated submission portal.

The identified methods are the exclusive methods for a document to be filed, and submission of documents by any other fashion to the authority shall not constitute filing unless agreed to in advance by the authority.

"Final order" means an order that is the final health care authority decision.

"Flexible spending arrangement" or "FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Formal administrative hearing" means a proceeding before a hearing officer that gives an appellant an opportunity for an evidentiary hearing as described in RCW 34.05.413 through 34.05.476 and WAC 182-32-3000 through 182-32-3200.

"HCA hearing representative" means a person who is authorized to represent the SEBB program in a formal administrative hearing. The person may be an assistant attorney general or authorized HCA employee.

"Health plan" means a plan offering medical, vision, dental, or any combination of these coverages, developed by the board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Hearing officer" means an impartial decision maker who presides at a formal administrative hearing, and is:

- A director-designated HCA employee; or
- When the director has designated the office of administrative hearings (OAH) as a hearing body, an administrative law judge employed by the OAH.

"Life insurance" means any basic life insurance paid for by the SEBB organization, as well as supplemental life insurance or supplemental dependent life insurance offered to and paid for by school employees for themselves and their dependents.

"Limited purpose flexible spending arrangement" or "limited purpose FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for dental and vision expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Long-term disability insurance" or "LTD insurance" means employer-paid long-term disability insurance and employee-paid long-term disability insurance offered by the SEBB program.

~~(("Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby eligible school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan established under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.))~~

"PEBB" means the public employees benefits board.

"Prehearing conference" means a proceeding scheduled and conducted by a hearing officer to address issues in preparation for a formal administrative hearing.

"Premium payment plan" means a benefit plan whereby school employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's medical premium contribution, due to an enrollee's tobacco use or an enrolled subscriber's spouse or state registered domestic partner choosing not to enroll in their employer-based group medical when:

- The spouse's or state registered domestic partner's share of the medical premiums is less than 95 percent of the additional cost an employee would be required to pay to enroll a spouse or state registered domestic partner in the public employees benefits board (PEBB) Uniform Medical Plan (UMP) Classic; and

- The benefits have an actuarial value of at least 95 percent of the actuarial value of PEBB UMP Classic benefits.

"Presiding officer" means an impartial decision maker who conducts a brief adjudicative proceeding and is a director-designated HCA employee.

"Reviewing officer or officers" means one or more delegates from the director that consider appeals relating to the administration of SEBB benefits by the SEBB program.

"Salary reduction plan" means a benefit plan whereby school employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, (~~medical~~) flexible spending arrangement, limited purpose flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational service district as governed by chapter 28A.310 RCW.

"School employee" means (~~(:→)~~) all employees of school districts and charter schools established under chapter 28A.710 RCW; (~~(→)~~) represented employees of educational service districts; (~~and~~) effective January 1, 2024, all employees of educational service districts; and effective January 1, 2024, pursuant to a contractual agreement with the authority, "school employee" may also include (a) employees of employee organizations representing school employees, at the option of each such employee organization; and (b) employees of a tribal school as defined in RCW 28A.715.010, if the governing body of the tribal school seeks and receives the approval of the authority to provide any of its insurance programs by contracts with the authority, as provided in RCW 41.05.021 (1) (f) and (g).

"School employees benefits board organization" or "SEBB organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees benefit board.

"SEBB" means the school employees benefits board.

"SEBB benefits" means one or more insurance coverages or other employee benefits administered by the SEBB program within the HCA.

"SEBB insurance coverage" means any health plan, life insurance, accidental death and dismemberment insurance, or long-term disability insurance administered as a SEBB benefit.

"SEBB program" means the program within the HCA that administers insurance and other benefits for eligible school employees (as described in WAC 182-31-040 or 182-30-130), (~~and~~) eligible dependents (as described in WAC 182-31-140), and eligible school board members (as described in WAC 182-31-200).

"State registered domestic partner," has the same meaning as defined in RCW 26.60.020(1) and substantially equivalent legal unions from other jurisdictions as defined in RCW 26.60.090.

"Subscriber" means the school employee (~~(⇆)~~) continuation coverage enrollee, or school board member who has been determined eligible by the SEBB program (~~(⇆)~~) SEBB organization(~~(s)~~), or employer group, is enrolled in SEBB benefits, and is the individual to whom the

SEBB program and contracted vendors will issue all notices, information, requests, and premium bills on behalf of an enrollee.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, and other tobacco products. It does not include e-cigarettes or United States Food and Drug Administration (FDA) approved quit aids.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal school" has the same meaning as defined in RCW 28A.715.010.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-064 Applicable rules and laws.** (1) A school employees benefits board (SEBB) organization or employer group must apply SEBB program rules adopted in the Washington Administrative Code (WAC) and follow instructions from the authority.

(2) A presiding officer, reviewing officer or officers, or hearing officer must first apply the applicable SEBB program rules adopted in the WAC. If no SEBB program rule applies, the presiding officer, reviewing officer or officers, or hearing officer must decide the issue according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, regulations, significant decisions indexed as described in WAC 182-32-130, and court decisions.

AMENDATORY SECTION (Amending WSR 21-13-117, filed 6/21/21, effective 1/1/22)

**WAC 182-32-2010 Appealing a decision regarding school employees benefits board (SEBB) eligibility, enrollment, premium payments, premium surcharges, a wellness incentive, or the administration of benefits.** (1) Any current or former school employee of a school employees benefits board (SEBB) organization or their dependent aggrieved by a decision made by the SEBB organization with regard to SEBB eligibility, enrollment, or premium surcharges may appeal that decision to the SEBB organization by the process described in WAC 182-32-2020.

**Note:** Eligibility decisions address whether a subscriber or a subscriber's dependent is entitled to SEBB benefits, as described in SEBB rules and policies. Enrollment decisions address the application for SEBB benefits as described in SEBB rules and policies including, but not limited to, the submission of proper documentation and meeting enrollment deadlines.

(2) Any current or former school employee of an employer group or their dependent who is aggrieved by a decision made by the employer group with regard to SEBB eligibility, enrollment, or premium surcharges may appeal that decision to the employer group through the process established by the employer group.

**Exception:** Any current or former school employee of an employer group aggrieved by a decision regarding life insurance, long-term disability (LTD) insurance, eligibility to participate in the SEBB wellness incentive program, or eligibility to receive a SEBB wellness incentive may appeal that decision to the SEBB appeals unit by the process described in WAC 182-32-2030.

(3) Any subscriber or dependent aggrieved by a decision made by the SEBB program with regard to SEBB eligibility, enrollment, premium payments, premium surcharges, eligibility to participate in the SEBB wellness incentive program, or eligibility to receive the SEBB wellness incentive, may appeal that decision to the SEBB appeals unit by the process described in WAC 182-32-2030.

~~((3))~~ (4) Any enrollee aggrieved by a decision regarding the administration of SEBB medical, dental, and vision, life insurance, accidental death and dismemberment (AD&D) insurance, or long-term disability insurance, may appeal that decision by following the appeal provisions of those plans, with the exception of:

(a) Enrollment decisions;

(b) Premium payment decisions other than life insurance or AD&D insurance premium payment decisions; and

(c) Eligibility decisions.

~~((4))~~ (5) Any SEBB enrollee aggrieved by a decision regarding the administration of SEBB property and casualty insurance may appeal that decision by following the appeal provisions of those plans.

~~((5))~~ (6) Any school employee aggrieved by a decision regarding the administration of a benefit offered under the salary reduction plan may appeal that decision by the process described in WAC 182-32-2050.

~~((6))~~ (7) Any subscriber aggrieved by a decision made by the SEBB wellness incentive program contracted vendor regarding the completion of the SEBB wellness incentive program requirements, or a request for a reasonable alternative to a wellness incentive program requirement, may appeal that decision by the process described in WAC 182-32-2040.

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-32-2030 Appealing a school employees benefits board (SEBB) program decision regarding eligibility, enrollment, premium payments, premium surcharges, ~~((and))~~ a SEBB wellness incentive, or certain decisions made by an employer group.** (1) A decision made by the school employees benefits board (SEBB) program regarding eligibility, enrollment, premium payments, premium surcharges, or a SEBB wellness incentive may be appealed by submitting a request to the SEBB appeals unit for a brief adjudicative proceeding to be conducted by the authority.

(2) A decision made by an employer group regarding life insurance, LTD insurance, eligibility to participate in the SEBB wellness incentive program, or eligibility to receive a SEBB wellness incentive, may be appealed by submitting a request to the SEBB appeals unit for a brief adjudicative proceeding to be conducted by the authority.

(3) The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

~~((3))~~ (4) The request for a brief adjudicative proceeding from a current or former school employee or school employee's dependent must be received by the SEBB appeals unit no later than ~~((thirty))~~ 30 days after the date of the denial notice.

~~((4))~~ (5) The request for a brief adjudicative proceeding from a ~~((self-pay))~~ continuation coverage enrollee, school board member, or their dependent ~~((of self-pay enrollee))~~ must be received by the SEBB

appeals unit no later than (~~sixty~~) 60 days after the date of the denial notice.

(~~(5)~~) (6) The SEBB appeals unit must notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(~~(6)~~) (7) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(~~(7)~~) (8) Failing to timely request a brief adjudicative proceeding will result in the prior SEBB program decision becoming the authority's final order without further action.

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-32-2040 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements?** (1) Any subscriber aggrieved by a decision regarding the completion of the wellness incentive program requirements, or request for a reasonable alternative to a wellness incentive program requirement, may appeal that decision to the school employees benefits board (SEBB) wellness incentive program contracted vendor.

(2) Any subscriber who disagrees with a decision in response to an appeal filed with the SEBB wellness incentive program contracted vendor may appeal the decision by submitting a request for a brief adjudicative proceeding to the SEBB appeals unit.

(a) The request for a brief adjudicative proceeding from a current or former school employee must be received by the SEBB appeals unit no later than (~~thirty~~) 30 days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(b) The request for a brief adjudicative proceeding from a (~~self-pay subscriber~~) continuation coverage enrollee or school board member must be received by the SEBB appeals unit no later than (~~sixty~~) 60 days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(3) The SEBB appeals unit must notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(4) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(5) If a subscriber fails to timely request a brief adjudicative proceeding, the decision of the SEBB wellness incentive program contracted vendor becomes the authority's final order without further action.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-2050 How can a school employee appeal a decision regarding the administration of benefits offered under the salary reduction plan?** (1) Any school employee who disagrees with a decision that denies eligibility for, or enrollment in, a benefit offered under the



salary reduction plan may appeal that decision by submitting a written request for administrative review to their school employees benefits board (SEBB) organization. The SEBB organization must receive the written request for administrative review no later than 30 days after the date of the decision resulting in denial. The contents of the written request for administrative review are to be provided as described in WAC 182-32-2070.

(a) Upon receiving the written request for administrative review, the SEBB organization must perform a complete review of the denial by one or more staff who did not take part in the decision resulting in the denial.

(b) The SEBB organization must render a written decision within 30 days of receiving the written request for administrative review. The written decision must be sent to the school employee who submitted the written request for review and must include a description of appeal rights. The SEBB organization must also send a copy of the SEBB organization's written decision to the SEBB organization's administrator (or designee) and to the SEBB appeals unit. If the SEBB organization fails to render a written decision within 30 days of receiving the written request for administrative review, the request for administrative review may be considered denied as of the 31st day and the original underlying SEBB organization decision may be appealed to the SEBB appeals unit by following the process in this section.

(2) Any school employee who disagrees with the SEBB organization's decision in response to a written request for administrative review, as described in this section, may request a brief adjudicative proceeding to be conducted by the authority by submitting a written request to the SEBB appeals unit.

(a) The SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than 30 days after the date of the SEBB organization's written decision on the request for administrative review. If a SEBB organization fails to render a written decision within 30 days of receiving a written request for administrative review, the SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than 30 days after the date the request for administrative review was deemed denied. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(i) The SEBB appeals unit must notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(ii) Once the SEBB appeals unit receives a request for a brief adjudicative proceeding, the SEBB appeals unit will send a request for documentation and information to the applicable SEBB organization. The SEBB organization will then have two business days to respond to the request and provide the documentation and information requested. The SEBB organization will also send a copy of the documentation and information to the school employee.

(iii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If a school employee fails to timely request a brief adjudicative proceeding, the SEBB organization's prior written decision becomes the authority's final order without further action.

(3) Any school employee aggrieved by a decision regarding a claim for benefits under the (~~medical~~) flexible spending arrangement or limited purpose flexible spending arrangement (FSA) or dependent care assistance program (DCAP) offered under the salary reduction plan may

appeal that decision to the authority's contracted vendor by following the appeal process of that contracted vendor.

(a) Any school employee who disagrees with a decision in response to an appeal filed with the contracted vendor that administers the (~~medical~~) FSA, limited purpose FSA, and DCAP under the salary reduction plan may request a brief adjudicative proceeding by submitting a written request to the SEBB appeals unit. The SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than 30 days after the date of the contracted vendor's appeal decision. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(i) The SEBB appeals unit must notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(ii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If a school employee fails to timely request a brief adjudicative proceeding, the contracted vendor's prior written decision becomes the authority's final order without further action.

(4) Any school employee aggrieved by a decision regarding the administration of the premium payment plan offered under the salary reduction plan may request a brief adjudicative proceeding to be conducted by the authority by submitting a written request to the SEBB appeals unit for a brief adjudicative proceeding.

(a) The SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than 30 days after the date of the denial notice by the SEBB program. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-16-2070.

(i) The SEBB appeals unit must notify the appellant in writing when the notice of appeal has been received.

(ii) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(b) If a school employee fails to timely request a brief adjudicative proceeding, the SEBB program's prior written decision becomes the authority's final order without further action.

#### NEW SECTION

**WAC 182-32-2060 How can an entity or organization appeal a decision of the health care authority to deny an employer group application?** (1) An entity or organization whose employer group application to participate in school employees benefits board (SEBB) insurance coverage is denied by the authority may appeal the decision by submitting a request for a brief adjudicative proceeding to the SEBB appeals unit.

(2) The SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than 30 days after the date of the denial notice. The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(3) The SEBB appeals unit must notify the appellant in writing when the request for a brief adjudicative proceeding has been received.

(4) The brief adjudicative proceeding will be conducted by a presiding officer designated by the director.

(5) Failing to timely request a brief adjudicative proceeding will result in the prior SEBB program decision becoming the authority's final order without further action.

AMENDATORY SECTION (Amending WSR 19-01-055, filed 12/14/18, effective 1/14/19)

**WAC 182-32-2070 What should a written request for administrative review and a request for brief adjudicative proceeding contain?** A written request for administrative review of the school employees benefits board (SEBB) organization's or employer group's decision and a request for brief adjudicative proceeding should contain:

- (1) The name and mailing address of the party requesting an administrative review or the brief adjudicative proceeding;
- (2) The name and mailing address of the appealing party's representative, if any;
- (3) Documentation, or reference to documentation, of decisions previously rendered through the appeal process, if any;
- (4) A statement identifying the specific portion of the decision being appealed and clarifying what is believed to be unlawful or in error;
- (5) A statement of facts in support of the appealing party's position;
- (6) Any information or documentation that the appealing party would like considered;
- (7) The type of relief sought; and
- (8) The signature of the appealing party or the appealing party's representative.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-2100 How to request a review of an initial order resulting from a brief adjudicative proceeding.** (1) Both the appellant and the authority may request review of an initial order. An appellant who has received an initial order upholding a school employees benefits board (SEBB) organization decision, employer group decision, SEBB program decision, or a decision made by a SEBB program contracted vendor, may request review of the initial order by the authority. The appellant may request review of the initial order by filing a written request or making an oral request with the SEBB appeals unit within 21 days after service of the initial order. The written or oral request for review of the initial order must be made by using the contact information included in the initial order. If the appellant fails to request review of the initial order within 21 days, the initial order becomes the authority's final order without further action.

(2) Upon timely request by the appellant, a review of an initial order will be performed by one or more reviewing officers designated by the director of the authority.

(3) If the appellant has not requested review, the authority may review an order resulting from a brief adjudicative proceeding on its own, and without notice to the parties, but it may not take action on review less favorable to any party than the initial order without giv-

ing that party notice and an opportunity to explain that party's view of the matter.

AMENDATORY SECTION (Amending WSR 19-14-093, filed 7/1/19, effective 8/1/19)

**WAC 182-32-2130 Judicial review of final order.** (1) Judicial review is the process of appealing a final order to a court.

(2) The appellant may appeal a final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.510 through 34.05.598. Neither the school employees benefits board (SEBB) program nor a SEBB organization or employer group may request judicial review.

AMENDATORY SECTION (Amending WSR 20-16-067, filed 7/28/20, effective 8/28/20)

**WAC 182-32-2140 Presiding officer—Designation and authority.**

The designation of a presiding officer must be consistent with the requirements of RCW 34.05.485 and the presiding officer must not have personally participated in the decision made by the school employees benefits board (SEBB) organization, employer group, or SEBB program.

(1) The presiding officer will decide the issue based on the information provided by the parties during the presiding officer's review of the appeal.

(2) A presiding officer is limited to those powers granted by the state constitution, statutes, rules, or applicable case law.

(3) A presiding officer may not decide that a rule is invalid or unenforceable.

(4) In addition to the record, the presiding officer may employ the authority's expertise as a basis for the decision.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-2150 Reviewing officer or officers—Designation and authority.** (1) The designation of a reviewing officer or officers must be consistent with the requirements of RCW 34.05.491 and the reviewing officer or officers must not have personally participated in the decision made by the school employees benefits board (SEBB) organization, employer group, or SEBB program.

(2) The reviewing officer or officers must review the initial order and the record to determine if the initial order was correctly decided and make any inquiries necessary to ascertain whether the proceeding must be converted to a formal administrative hearing.

(3) The reviewing officer or officers will issue a final order that will either:

(a) Affirm the initial order in whole or in part; or

(b) Reverse the initial order in whole or in part; or

(c) Remand to the presiding officer in whole or in part.

(4) A reviewing officer or officers are limited to those powers granted by the state constitution, statutes, rules, or applicable case law.

(5) A reviewing officer or officers may not decide that a rule is invalid or unenforceable.

(6) In addition to the record, the reviewing officer or officers may employ the authority's expertise as a basis for the decision.

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

**WAC 182-32-3175 How to request a review of an initial order by the office of administrative hearings.** (1) Both the appellant and the authority may request review of an initial order. An appellant who has received an initial order upholding a school employees benefits board (SEBB) organization or employer group decision, a SEBB program decision, or a decision made by a SEBB program contracted vendor, may request review of the initial order by filing a written request or making an oral request with the SEBB appeals unit within 20 days after service of the initial order. The written or oral request for review of the initial order must be made by using the contact information included in the initial order. If such review is requested, the hearing officer or their designee from the authority, shall issue a final order in accordance with WAC 182-32-3030. If the appellant fails to request review of the initial order within 20 days, the initial order becomes the authority's final order without further action.

(2) Upon timely request by the appellant, a review of an initial order will be performed by one or more reviewing officers designated by the director of the authority.

(3) If the appellant has not requested review of the initial order, the authority may review an initial order issued by the office of administrative hearings on its own, and without notice to the parties, but it may not take action on review less favorable to any party than the initial order without giving that party notice and an opportunity to explain that party's view of the matter.