

## WSR 24-14-133

## PROPOSED RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-01.06—Filed July 2, 2024, 3:44 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: The following section is being amended: WAC 182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies?

Hearing Location(s): On August 6, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_ICtK0VXGQXC1K3UtUFFypw](https://us02web.zoom.us/webinar/register/WN_ICtK0VXGQXC1K3UtUFFypw). If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than August 7, 2024.

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

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

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 182-12-265 to support the PEBB program:

**1. Implement statutory changes:**

- Included language that addresses continued enrollment for a survivor of a retiree when the retiree dies to implement HB 2481, section 1, chapter 185, Laws of 2024.
- Included language that clarifies eligibility for continued enrollment in PEBB health plan coverage to implement SHB 1804, section 1, chapter 312, Laws of 2023.

**2. Implement PEBB policy resolutions:**

- PEBB 2024-14 Non-medicare retiree enrollment requirement.
- PEBB 2024-19 UMP classic medicare enrollment.
- PEBB 2024-20 UMP classic medicare enrollment during gap months.
- PEBB 2024-21 Amending PEBB 2022-03 medicare advantage prescription drug plan enrollment during gap months.
- PEBB 2024-26 PEBB retiree insurance coverage deferral - permanently live in a location outside of the United States.

**3. Make technical amendments:**

- Removed language related to Washington State Educational Service Districts.
- Added WAC 182-12-232 references that describe when a survivor who loses eligibility may continue health plan enrollment.

Reasons Supporting Proposal: See purpose.

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

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

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Stella Ng, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0883; Implementation: Cade Walker, P.O. Box 42716, Olympia, WA 98504-2716, 360-643-7900; and Enforcement: Jean Bui, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1858.

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

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

July 2, 2024

Wendy Barcus

Rules Coordinator

## OTS-5526.1

AMENDATORY SECTION (Amending WSR 23-14-015, filed 6/23/23, effective 1/1/24)

**WAC 182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies?** The survivor of an eligible employee, an eligible school employee, or a retiree who meets the eligibility criteria and submits the required forms as described in subsection (1), (2), or (3) of this section is eligible to enroll or defer enrollment as a survivor under public employees benefits board (PEBB) retiree insurance coverage. If enrolling in PEBB retiree insurance coverage, the survivor's first premium payment and applicable premium surcharges are due to the health care authority (HCA) no later than 45 days after the election period ends as described in subsection (1), (2), or (3) of this section, except as described in WAC 182-08-180 (1)(a). Following the survivor's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-08-180 (1)(c).

(1) An employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage provided they immediately begin receiving a monthly retirement benefit from any state of Washington sponsored retirement system. To satisfy the requirement to immediately receive a monthly retirement benefit they must begin receiving monthly benefit payments no later than 120 days from the date of death of the employee. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the later of the date of the employee's death or the date the survivor's PEBB insurance coverage ends.

**Note:** Enrollment in the PEBB program's medicare advantage (MA) ~~(or)~~ plan, medicare advantage-prescription drug (MA-PD) plan, or the Uniform Medical Plan (UMP) Classic medicare plan may not be retroactive.

(1) If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins.

(2) If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in ~~((Uniform Medical Plan (UMP) Classic))~~ transitional coverage as designated by the director or designee during the gap month(s) prior to when the MA-PD coverage begins.

(3) If a subscriber elects to enroll in the UMP Classic medicare plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in transitional UMP coverage during the gap month(s) prior to when the UMP Classic medicare plan begins.

(a) The employee's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

**Notes:** If a spouse, state registered domestic partner, or child of an eligible employee is not eligible for a monthly retirement benefit, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, they may continue health plan enrollment as described in WAC 182-12-146.

Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of an employee of a PEBB participating employer group will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.

Eligibility for the surviving spouse, surviving state registered domestic partner, or surviving child of an elected and full-time appointed official of the legislative and executive branches of state government is described in WAC 182-12-180.

(2) A retiree's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible retiree may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage as described in (a) through (d) of this subsection.

~~((The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death.))~~

(a) The retiree's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The retiree's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

(c) If a spouse, state registered domestic partner, or child of an eligible retiree is enrolled in a PEBB health plan at the time of the retiree's death, the survivors will be enrolled in the same PEBB health plan coverage they were enrolled in effective the first day of the month in which the retiree's death occurred. Eligible survivors may continue PEBB health plan coverage as described in (a) and (b) of this subsection. An eligible survivor may make changes to their PEBB health plan coverage or defer enrollment by submitting the required forms to the PEBB program. The required forms must be received no later than 60 days after the retiree's death. Changes in PEBB health plan coverage will be effective the first day of the month following the date of the retiree's death.

(d) If a spouse, state registered domestic partner, or child of an eligible retiree is not enrolled in a PEBB health plan at the time of the retiree's death, the survivor is eligible to enroll or defer enrollment as a survivor under PEBB retiree insurance coverage. The

required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death. For a survivor to enroll in a PEBB health plan who is not enrolled due to the retiree electing to defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 or 182-12-205 (3) (a) through (e), the survivor must also provide evidence of continuous enrollment in one or more qualifying coverages as described in WAC 182-12-205 (3) (a) through (e) from the most recent open enrollment for which the survivor was not enrolled in a PEBB medical plan prior to the retiree's death. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage was deferred and the start date of a qualifying coverage, and between each period of enrollment in qualifying coverages during the deferral period. If a retiree elected to defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-205 (3) (e), the survivor must provide proof of enrollment in medicare parts A and B; evidence of continuous enrollment in a qualified coverage is waived as described in WAC 182-12-205 (6) (e).

**Note:** Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of an employer group retiree will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.

(3) A school employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible school employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage at the time of the school employee's death, provided the employee died on or after October 1, 1993. The survivor must immediately begin receiving a retirement benefit allowance under chapter 41.32, 41.35 or 41.40 RCW. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the later of the date of the school employee's death or the date the survivor's (~~educational service district coverage, or~~) school employees benefits board (SEBB) insurance coverage ends.

**Note:** Enrollment in the PEBB program's MA (~~or~~) plan, MA-PD plan, or the UMP Classic medicare plan may not be retroactive.

(1) If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins.

(2) If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in ((UMP Classic)) transitional coverage as designated by the director or designee during the gap month(s) prior to when the MA-PD coverage begins.

(3) If a subscriber elects to enroll in the UMP Classic medicare plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in transitional UMP coverage during the gap month(s) prior to when the UMP Classic medicare plan begins.

(a) The school employee's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The school employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

**Notes:** If a spouse, state registered domestic partner, or child of an eligible school employee is not eligible for a retirement benefit allowance, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, a spouse, state registered domestic partner, or child of an eligible school employee enrolled in SEBB insurance coverage may continue health plan enrollment as described in WAC 182-31-090. Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of a school employee of a SEBB participating employer group will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.

(4) If premiums and applicable premium surcharges received by the HCA are sufficient as described in WAC 182-08-180 (1) (d) (ii) to maintain PEBB health plan enrollment after the employee, school employee, or retiree's death, the PEBB program will consider the payment as notice of the survivor's intent to continue enrollment.

If the survivor's enrollment ended due to the death of the employee, school employee, or retiree, the PEBB program will reinstate

the survivor's enrollment without a gap subject to payment of premium and applicable premium surcharges.

(5) If a survivor elects to enroll a dependent in PEBB health plan coverage, the dependent must be enrolled in the same PEBB medical and PEBB dental plan as the survivor.

**Exceptions:** (1) If a survivor selects a medicare supplement plan ~~((or))~~, a MA-PD plan, or the UMP Classic medicare plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a survivor selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(2) If a survivor selects a medicare supplement plan, MA-PD plan, or any other medicare plan, they may elect a PEBB vision plan available for any nonmedicare enrollees.

(6) A nonmedicare survivor must enroll in PEBB medical to be able to enroll in PEBB dental, in PEBB vision, or in both PEBB dental and PEBB vision. Any nonmedicare dependents they elect to enroll must be enrolled in the same PEBB medical, PEBB dental, and PEBB vision plan.

(7) In order to avoid duplication of group medical coverage, a survivor may defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 and 182-12-205.