



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (August 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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FILED

DATE: April 16, 2018

TIME: 1:22 PM

WSR 18-09-065

Agency: Health Care Authority (HCA), Public Employees Benefits Board (PEBB) Admin #2018-01

Subject of possible rule making:

Enrollment, eligibility, and appeal rules in Chapters 182-08, 182-12, 182-16 WAC.

Statutes authorizing the agency to adopt rules on this subject: RCW 41.05.021, 41.05.160

Reasons why rules on this subject may be needed and what they might accomplish:

1. The Health Care Authority (HCA) will consider amendments and new rules to implement the following:
 - The PEBB Program will review rules in Chapters 182-08, 182-12, and 182-16 WAC to determine the need for amending existing sections or adopting new sections to reflect changes the agency is making to its Brief Adjudicative Proceedings and Administrative Hearing processes.
 - Clarify that it is the PEBB Program that sends the COBRA election form, reviews COBRA eligibility, receives the election form and first payment in WAC 182-12-133 and 182-12-146. Also, determine if non-qualified COBRA beneficiaries who qualify for PEBB continuation coverage should be included in WAC 182-12-146.
 - Review rules related to the administration of the medical Flexible Spending Account (FSA) and Dependent Care Assistance Program (DCAP) programs in WAC 182-08-197, 182-12-138, 182-12-141 and 182-12-146 to clarify notice requirements for employees after termination of employment and to ensure rules are consistent with Family Medical Leave Act (FMLA) and Uniformed Services Employment and Reemployment Rights Act (USERRA) requirements.
 - Amend the definitions of employer contribution, special open enrollment, waive, premium surcharge and premium payment plan in WAC 182-08-015, 182-12-109, and 182-16-020. Add new definitions of transfer and break-in PEBB coverage to Chapters 182-08, 182-12 and 182-16 WAC.
 - Amend dependent enrollment verification during special enrollment in WAC 182-12-262.
 - Amend WAC 182-12-262 to convey anti-rescission limitations in the PEBB Program's discretion.
 - Amend child eligibility consistent within policy adopted by the PEB Board and changes recommended to the SEB Board.
 - Clarify that the employing state agency or the applicable contracted vendor must receive the employee form no later than 31 days after the employee becomes eligible for PEBB benefits in WAC 182-08-197.
 - Clarify each employer's responsibility for payment of the employer contribution when an employee transfers from one employing agency to another, and that there will be no break-in PEBB coverage between transfer in WAC 182-08-200.
 - Amend WAC 182-08-187 to correct numbering errors.
 - Amend WAC 182-12-123 and 182-12-205 to make technical corrections.

- Amend language based on a rule change in WAC 182-12-171.
- Amend rules to account for the implementation of family and medical leave insurance program. Amend WAC 182-08-198 to address when coverage begins when a member enrolls in a Medicare Advantage plan.
- Clarify the enforcement of the National Medical Support Notice (NMSN) when a terminated employee elects self-only COBRA in WAC 182-12-263.
- Clarify 45-day rule related to premium payments and premium refunds by cross-referencing WAC 182-12-146 with WAC 180-08-180, clarify if WAC 182-08-180 is applicable to all or just employees eligible for the employer contribution.
- Review rules related to premium surcharge requirements.
- Amend the employer group application process by adding alternative requirements for employer groups that are not able to provide historical claims data and cost information as required in WAC 182-08-235 and review WAC 182-08-240 for readability.
- Clarify that the dependent of a retiree must be enrolled in the same medical and dental plan with narrow exceptions in chapter 182-12 WAC.
- Consider adding details regarding eligibility for judges and a cross-reference to the definition of separated employee in RCW 41.05.022 in WAC 182-12-171.
- Amend WAC 182-12-205 to add an exception regarding when PEBB insurance coverage will end for a member who enrolls in a Medicare Advantage plan. Clarify once a retiree voluntarily terminates the coverage, the retiree cannot reenroll in PEBB benefits unless the retiree becomes newly eligible.
- Clarify that the subscriber must maintain continuous enrollment in one of the types of coverage_allowed and clarify timelines for deferral upon retirement and post retirement in WAC 182-12-200 and 182-12-205.
- Amend rules to include elected officials in Chapters 182-08, 182-12, and 182-16 WAC.
- Clarify whether enrollment forms should be submitted to the PEBB Program or the employing agency in WAC 182-08-198.
- Consider separating Court Orders and NMSN into two special open enrollment events by evaluating impacts in Chapters 182-08 and 182-12 WAC.
- Amend WAC 182-08-199 to clarify procedures during open enrollment and special open enrollment for FSA and DCAP and amend multiple rules to better align with Salary Reduction Plan document language.
- Clarify COBRA and deferral processes for surviving dependents in WAC 182-12-265.
- Amend rules in chapter 182-12 WAC to clarify that an employee must provide evidence in addition to the required form to enroll in coverage during special open enrollment event.
- Amend WAC 182-12-300 regarding whether subscribers who complete the well-being assessment to earn the \$25 gift card must also claim the gift card within the same calendar year and to clarify earned wellness incentives for subscribers who enroll in Medicare Parts A and B the following year.

2. HCA will conduct a full review of PEBB Program rules in these chapters and make changes as necessary to provide technical corrections, implement legislation, implement PEB Board policy, and to comply with federal or state regulations.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: N/A

Process for developing new rule (check all that apply):

Negotiated rule making

Pilot rule making

Agency study

Other (describe) HCA welcomes the public to take part in developing this rule. If interested, contact the person identified below to receive an early rule draft to review. After the early review, HCA will send a notice of proposed rulemaking (CR-102) to everyone receiving this notice and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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Other:

Additional comments: Individuals wishing to receive PEBB Program rulemaking notices are encouraged to join the PEB Rules and Policy GovDelivery service available by following this path

https://public.govdelivery.com/accounts/WAHCA/subscriber/new?topic_id=WAHCA_303

Date: April 16, 2018

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:

