



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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FILED

DATE: May 22, 2019

TIME: 9:41 AM

WSR 19-11-125

Agency: Health Care Authority School Employees Benefits Board (SEBB) Admin # 2019-01

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-04-081 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

The following sections in Chapter 182-30 WAC are revised or new:

182-30-010 Purpose

182-30-020 Definitions

182-30-030 (new) Employer contribution for school employees benefits board (SEBB) benefits

182-30-040 Premium payments and premium refunds

182-30-050 What are the requirements regarding premium surcharges?

182-30-060 (new) 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 requirements as part of participation in school employees benefits board (SEBB) benefits

182-30-080 (new) 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?

182-30-081 (new) School employees benefits board (SEBB) first annual open enrollment

182-30-085 (new) What happens if my health plan becomes unavailable due to a change in contracted service area or eligibility for medicare?

182-30-090 When may a subscriber change health plans?

182-30-100 When may a subscriber enroll or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP)?

182-30-120 Advertising or promotion of school employees benefits board (SEBB) benefit plans

182-30-130 (new) What are the requirements for a school employees benefits board (SEBB) organization engaging in local negotiations regarding SEBB benefits eligibility criteria?

The following sections in Chapter 182-31 WAC are revised or new:

182-31-010 Purpose

182-31-020 Definitions

182-31-030 What are the obligations of a school employees benefits board (SEBB) organization in the application of school employee eligibility?

182-31-040 How do school employees establish eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and when does SEBB insurance coverage begin?

182-31-050 When does eligibility for the employer contribution for school employees benefits board (SEBB) benefits end?

182-31-060 Who is eligible to participate in the salary reduction plan?

182-31-070 (new) Is dual enrollment in school employees benefits board (SEBB) prohibited?

182-31-080 (new) When may a school employee waive enrollment in school employees benefits board (SEBB) medical and when may they enroll in SEBB medical after having waived enrollment?

182-31-090 When is an enrollee eligible to continue school employees benefits board (SEBB) health plan coverage under Consolidated Omnibus Budget Reconciliation Act (COBRA) and where may school employee survivors go for additional coverage options?

182-31-091 (new) School employees benefits boards (SEBB) continuation coverage for school employees and their dependents who are not eligible for SEBB benefits as of January 1, 2020, and for dependents who were already on a SEBB organization's continuation coverage as of December 31, 2019?

182-31-100 (new) What options for continuation of coverage are available to school employees and their dependents during certain types of leave or when employment ends due to a layoff?

182-31-110 What options are available if a school employee is approved for the federal Family and Medical Leave Act (FMLA)?

182-31-120 (new) What options for continuation coverage are available to school employees during their appeal of a grievance?

182-31-130 (new) What options for continuation coverage are available to dependents who cease to meet the eligibility criteria as described in WAC 182-31-140 or 182-30-130?

182-31-135 (new) Where may school employee survivors go for additional coverage options?

182-31-140 Who are eligible dependents?

183-31-150 When may subscribers enroll or remove eligible dependents?

182-31-160 National Medical Support Notice (NMSN)

182-31-190 (new) School employees benefits board (SEBB) wellness incentive program eligibility and procedural requirements

The following sections in Chapter 182-32 WAC are revised or new:

182-32-020 Definitions

182-32-064 Applicable rules and laws

182-32-066 Burden of proof, standard of proof, and presumptions

182-32-120 Computation of time

182-32-130 Index of significant decisions

182-32-2000 Brief adjudicative proceedings

182-32-2010, Appealing a decision regarding eligibility, enrollment, premium payments, premium surcharges, or the administration of benefits

182-32-2020 Appealing a decision made by a school employees benefits board (SEBB) organization about eligibility, premium surcharge, or enrollment in benefits

182-32-2030 Appealing a school employees benefits board (SEBB) program decision regarding eligibility, enrollment, premium payments, and premium surcharges

182-32-2040 (new) 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?

182-32-2080 Who can appeal or represent a party in a brief adjudicative proceeding?

182-32-2085 Continuances

182-32-2100 How to request a review of an initial order resulting from a brief adjudicative proceeding

182-32-2105 Withdrawing the request for a brief adjudicative proceeding or review of an initial order

182-32-2120 Request for reconsideration

182-32-2130 Judicial review of final order

182-32-2150 Review officer or officers –Designation and authority

182-32-2160 Conversion of a brief adjudicative proceeding to a formal administrative hearing

182-32-3000 Formal administrative hearings

182-32-3010 Requirements to appear and represent a party in the formal administrative process

182-32-3030 Authority of the hearing officer

182-32-3080 Time requirements for service of notice made by the hearing officer

182-32-3100 Rescheduling and continuances for formal administrative hearings

182-32-3120 Dispositive motions

182-32-3130 Subpoenas

182-32-3140 Orders of dismissal – Reinstating a formal administrative hearing after an order of dismissal

182-32-3180 Request for reconsideration and response – Process

182-32-3190 Decisions on requests for reconsideration

182-32-3200 Judicial review of final order

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 25, 2019	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf Rm 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than June 26, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: HCA Rules Coordinator

Address: PO Box 42716, Olympia WA 98504-2716

Email: arc@hca.wa.gov

Fax: (360) 586-9727

Other:

By (date) June 25, 2019

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) June 21, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Health Care Authority (HCA) continues to develop rules to implement legislation that created the new school employees' benefits board (SEBB) program. The purpose of this proposal is to create new rules and to amend some of the existing rules.

Implement School Employees Benefits (SEB) Board policy resolutions and statutory changes:

- Created WAC 182-31-070 to establish that dual enrollment in SEBB benefits is prohibited and that if a school employee has eligibility at more than one SEBB Organization how that will be resolved;
- Amended WAC 182-31-040 to include school employee eligibility for mid to late year hires within a school year and for school employees who are presumed eligible based on their work pattern the last two years. Also, added that school employees may only stack hours within one SEBB Organization to establish SEBB benefits eligibility;
- Created WAC 182-31-080 to established the process for school employees to waive SEBB benefits and how to return from a waive status;
- Created WAC 182-30-080 to establish the process for the enrollment of newly hired school employees and for school employees who are regaining eligibility. Establishes a default enrollment if the school employee doesn't enroll in or waive SEBB benefits within 31 days of establishing eligibility for the employer contribution. Add information on uninterrupted coverage for school employees moving between SEBB Organizations given certain circumstances, and for school employees returning to the same SEBB Organization given certain circumstances;
- Created WAC 182-31-190 to establish eligibility and procedural requirements for the SEBB wellness incentive;
- Amended WAC 182-32-2010 to include the process that a school employee will use to appeal wellness incentive decisions;
- Amended WAC 182-32-2030 to include the process that a school employee will use to appeal SEBB Program wellness incentive decisions;
- Created WAC 182-32-2040 to include the process that a school employee will use to appeal wellness incentive program requirements;
- Created WAC 182-31-100 to establish certain types of approved leave that will be allowed to have continuation coverage for up to twenty-nine months;
- Created WAC 182-31-091 to establish SEBB continuation coverage eligibility for school employees and their dependents who don't meet SEBB eligibility standards at the start of the program or who were already on a SEBB organizations continuation coverage at on December 31, 2019;
- Created WAC 182-30-130 to establish the eligibility criteria and program requirement for locally negotiated SEBB benefits;
- Created WAC 182-30-060 to establish the error correction process to be used within the SEBB Program when an employer error made; and
- Amended the definition of "school employee" in chapters 182-30 WAC, 182-31 WAC, and 182-32 WAC to reflect that nonrepresented educational service district employees will join SEBB in January of 2024 to implement ESHB 2140.

Making technical amendments to:

- Amended the purpose statements within chapters 182-30 WAC and 182-31 WAC to include the locally negotiated SEBB benefits eligibility and enrollment;
- Created WAC 182-30-030 to describe what the employer contribution will be used for;
- Amended WAC 182-30-040 to include information on subscribers enrolling in continuation coverage and when and where payments are due. Also, added that if a payment plan requested it can last for up to twelve months in duration;
- Amended WAC 182-30-050 to include information on what happens to school employees that waive coverage as related to surcharge, that school employees that waive their coverage to be on their spouse or state register domestic partners SEBB benefits will not receive the spousal / state registered domestic partners surcharge, that spouses or state registered domestic partners who elect to not to enroll in TRICARE will not receive the surcharge;
- Amended WAC 182-30-070 to include information on what happens to the employer contribution if a school employee waives coverage under regular SEBB eligibility and under locally negotiated SEBB benefits;
- Amended WAC 182-30-075 to include additional requirement when a school employee needs to update their address with the SEBB Program;
- Created WAC182-30-081 to address the requirements of the first SEBB open enrollment (OE) period;
- Created WAC182-30-085 to address what happens if my health plan becomes unavailable due to a change in contracted service area or eligibility for Medicare;
- Amended WAC182-30-090 to clarify that newly hired school employee must enroll with 31 days and not 60 days. That a dental plan is available if it is within 50 miles of the new address. Amended the dependent moves into or out of the United States life event to include the requirement that the change in residence results in the dependent losing their health insurance;
- Amended WAC 182-30-100 to reflect that school employees not subscribers were impacted by this rule;
- Amended WAC 182-31-020 to include a definition of "Layoff", and "Plan year";
- Amended WAC 182-31-090 to clarify issues about who is eligible and where and when to turn in the required forms for COBRA coverage;
- Amended WAC 182-31-020 to include requirements for the Washington State Paid Family Medical Leave Program;
- Created WAC182-31-120 to address the continuation coverage options available when a school employee is appealing a grievance;
- Created WAC182-31-130 to address the continuation coverage options available when a dependent ceases to meet the SEBB Programs eligibility standard;
- Created WAC182-31-135 to address the continuation coverage options available to a survivor of a school employee;
- Amended WAC 182-31-150 to clarify how to remove a dependent who is no longer eligible for benefits and amended the dependent moves into or out of the United States life event to include the requirement that the change in residence results in the dependent losing their health insurance;
- Amended WAC 182-32-020 with correct RCW citation as well as adding WAC citation references regarding formal administrative hearings;
- Amended WAC 182-32-064 to include that SEBB Organizations must follow SEBB Program rules and instructions from the HCA;
- Amended WAC 182-32-066 to include that the appellant has the burden of proof in a brief adjudicative proceeding or a formal administrative hearing;
- Amended WAC 182-32-120 to clarify that the time prescribed is ten days or less;
- Amended WAC 182-32-2000 with correct RCW citation; and
- Amended WAC 182-32-2010 to include the process that a school employee will use to appeal a decision regarding SEBB property and casualty appeals.

Amending rule to improve administration of the SEBB Program:

- Within the definition sections of chapters 182-30, 182-31, and 182-32 WAC:
 - Amended the definition of "life insurance" to remove the reference to accidental death and dismemberment (AD&D) and created a new definition for "AD&D;"
 - Amended the definition of "Calendar days or days" to include all state holidays as described in RCW 1.16.050;
 - Amended the definition of "Dependent Care Assistance Program" to reflect the correct statute and to incorporate who may participate;

- Added a definition of “Employer-based group health plan;”
- Amended the definition of “Enrollee” to include locally negotiated SEBB benefits;
- Amended the definition of “Health plan” to include the vision benefit;
- Amended the definition of “Medical flexible spending arrangement” to reflect the correct statute and to incorporate who may participate;
- Amended the statutory reference in “Premium payment plan;”
- Added a definition of “Public employees benefits board or PEBB;”
- Amended the definition of “SEBB Insurance” to include AD&D and to specify long-term disability; and
- Amended the definition of “SEBB program” to include locally negotiated SEBB benefits.
- Within the definition sections of chapters 182-30 and 182-31WAC:
 - Removed the definition of “Disability insurance.” This idea is already included with the definition of “LTD insurance;”
 - Amended the definition of “Employer contribution” to include the funding amount paid for locally negotiated SEBB benefits;
 - Added a definition of “Supplemental coverage;”
 - Added a definition of “Waive;” and
 - Added a definition of “Week.”
- Amended WAC 182-30-020 created a new definition of “Salary reduction plan,” and removed the definition of “Short term disability insurance;”
- Amended WAC 182-30-090 to clarify the disruption of care life event;
- Amended WAC 182-31-020 and WAC 182-32-020 to clarify the definition of “Documents;”
- Amended WAC 182-31-060 to clarify who is eligible for the salary reduction plan;
- Amended WAC 182-31-140 to clarify dependent verification requirements and how and when a school employee must notify the SEBB Program when a dependent is no longer eligible for benefits;
- Amended WAC 182-31-160 to provide clarity on when a dependent may be removed from coverage;
- Amended WAC 182-32-020 add a definition of “Dispositive motion”, to remove the definition of “Employer contribution, and “Employer-paid coverage;” and
- Amended WAC 182-32-2080 and WAC 182-32-3010 to clarify when HCA employees may represent an appellant.

Reasons supporting proposal: See purpose statement

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: ESHB 2140, SSB 5975, and ESSB 6241

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Health Care Authority

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Rob Parkman	PO Box 42716, Olympia WA 98504-2716	360-725-0883
Implementation:	Barbara Scott	PO Box 42716, Olympia WA 98504-2716	360-725-0880
Enforcement:	Scott Palafox	PO Box 42716, Olympia WA 98504-2716	360-725-1858

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

 No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW _____.
Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. These rules do not apply to small businesses.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: May 22, 2019	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

**Chapter 182-30 WAC
(~~(ENROLLMENT)~~) PROCEDURES**

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

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) ~~((d)(i))~~. ~~This chapter does not address where a SEBB organization has locally negotiated to offer SEBB benefits to school employees who are anticipated to work less than six hundred thirty hours in a school year as authorized in RCW 41.05.740 (6)(e))~~.

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

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 ~~((a once yearly))~~ 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, ~~((or))~~ enroll in coverage, or waive enrollment in SEBB medical. School employees participating in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), ~~((and))~~ or the medical flexible spending arrangement (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 legal state 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 health plan coverage 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 ((board)) 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.

~~("Disability insurance" includes any basic long-term disability insurance paid for by the school employees benefits board (SEBB) organization and any supplemental long-term disability or supplemental short-term disability paid for by the employee.)~~ "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 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 ~~((182-31-060))~~ 182-31-040 or 182-30-130.

"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.

"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 SEBB 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 ten percent of the premium required by the health plan as described in Treasury Regulation 26 C.F.R. 54.4980B-8.

"Life insurance" ~~((for eligible school employees includes))~~ means any basic life insurance ~~((and accidental death and dismemberment (AD&D) insurance))~~ paid for by the ~~((school employees benefits board (+))~~ SEBB ~~((+))~~ organization, as well as supplemental life insurance ~~((and supplemental AD&D insurance))~~ offered to and paid for by school employees for themselves and their dependents.

"LTD insurance" or "long-term disability insurance" ~~((includes))~~ means any basic long-term disability insurance paid for by the ~~((school employees benefits board (+))~~ SEBB ~~((+))~~ organization and any supplemental long-term disability insurance offered to and paid for by the school employee.

"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 ~~((this))~~ chapter 41.05 RCW pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"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 ~~((this))~~ 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 ninety-five 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 ninety-five percent of the actuarial value of PEBB UMP Classic benefits.

"Public employees benefits board" or "PEBB" means the board established under RCW 41.05.055.

"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, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School employee" means:

- All employees of school districts (~~(, educational service 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.

"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 established in RCW 41.05.740.

"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 182-31-140).

~~("Short-term disability insurance" includes any basic short-term disability insurance paid for by the school employees benefits board (SEBB) organization and any supplemental short-term disability insurance offered to and paid for by the school employee.)~~

"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 in SEBB medical. School employees eligible to participate in the salary reductions plan may enroll in or revoke their election under the DCAP, medical 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 who has been determined eligible by the SEBB program or SEBB organization, 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, accidental death and dismemberment (AD&D) insurance coverage, or long-term disability coverage purchased by the school employee in addition to the basic 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.

"Waive" means an eligible school employee affirmatively declining enrollment in a SEBB health plan because the school employee is enrolled in other employer-based group medical, TRICARE plans, or medicare as allowed under WAC 182-31-080.

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

NEW SECTION

WAC 182-30-030 Employer contribution for school employees benefits board (SEBB) benefits. The employer contribution must be used to provide school employees benefits board (SEBB) insurance coverage for the basic life insurance benefit, basic accidental death and dismemberment (AD&D) insurance benefit, basic long-term disability (LTD) insurance benefit, medical insurance, vision insurance, dental insurance, SEBB program administrative costs, the school employee remittance required in RCW 28A.400.410 and to establish a reserve for any remaining balance. There is no employer contribution available for any other insurance coverage for school employees employed by SEBB organizations.

WAC 182-30-040 Premium payments and premium refunds. School employees benefits board (SEBB) benefits 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.

(1) **Premium payments.** ~~((School employees benefits board (SEBB) insurance coverage))~~ benefits premiums and applicable premium surcharges for all subscribers become due the first of the month in which SEBB ~~((insurance coverage is))~~ benefits are effective. Premiums and applicable premium surcharges are due from the subscriber for the entire month of ~~((SEBB insurance coverage))~~ SEBB benefits 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, 182-31-091, 182-31-100, 182-31-120, or 182-31-130, the first premium payment and applicable premium surcharges are due to the health care authority (HCA) no later than forty-five 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.

(b) For school employees who are eligible for the employer contribution, ~~((the school employee's))~~ premiums and applicable premium surcharges are due to the SEBB organization. If a school employee elects supplemental coverage, the school employee is responsible for payment of premiums ~~((starting))~~ from the month the supplemental coverage begins.

~~((b))~~ (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 ~~((health care authority (HCA)))~~ HCA(+). For subscribers not eligible for the employer contribution or school employees eligible for the employer contribution as described in WAC 182-31-110, monthly premiums or applicable premium surcharges that remain unpaid for thirty days will be considered delinquent. A subscriber is allowed a grace period of thirty days from the date the monthly premiums or applicable premium surcharges become delinquent to pay the unpaid premium balance or applicable premium surcharges. If a subscriber's monthly premiums or applicable premium surcharges remain unpaid for sixty days from the original due date, the subscriber's SEBB ~~((insurance coverage))~~ benefits 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 twelve months in duration with the subscriber or the subscriber's legal representative upon request.

~~((e))~~ (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 and the monthly premiums or applicable premium surcharges remain unpaid for thirty days; or

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

(2) **Premium refunds.** SEBB benefits 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 three month 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, ~~((showing proof))~~ and provides clear and convincing evidence of extraordinary circumstances ~~((beyond their control))~~, such that ~~((it was effectively impossible to))~~ the subscriber could not timely submit the necessary information to accomplish an allowable enrollment change within sixty 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 twelve 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 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.

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

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 years and older, engages in tobacco use.

(a) A subscriber must attest to whether any enrollee, thirteen 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 ~~((iv))~~ (v) 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 ~~((the required))~~ that form. The school employee must submit the ~~((attestation))~~ 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 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. ~~((All other))~~ A subscriber((s)) on continuation coverage must submit their updated ~~((attestation))~~ form to the SEBB program~~((r))~~. 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 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. ~~((All other))~~ A subscriber((s)) 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; ~~((or))~~

(iv) An enrollee, thirteen 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 ~~((updated))~~ form to the SEBB program. An attestation that results in a premium surcharge will take effect the same date as SEBB medical begins~~((r))~~; or

(v) 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 organization. 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 ~~((a))~~ 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 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 through seventeen years old and uses tobacco products accessed the information and resources aimed at teens on the Washington state department of health's web site 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 (~~(elected)~~) 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 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 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 (~~(or during the annual open enrollment)~~) 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. (~~(Any other)~~) A 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) ((When a special open enrollment event occurs. The subscriber must submit the required form to enroll their spouse or state registered domestic partner in SEBB medical and include their attestation on the required form. A school employee must submit the form to their SEBB organization. Any other subscriber 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;~~

~~(iii))~~ 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 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 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 ~~((an updated attestation))~~ the form to their SEBB organization. ~~((Any other))~~ A 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 ~~((+ and~~
~~(iv)))~~.

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

(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.

NEW SECTION

WAC 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors? (1) If a SEBB organization fails to provide notice of benefits eligibility or accurately enroll a school employee or their dependents in benefits, the error will be corrected prospectively with enrollment in benefits effective the first day of the month following the date the error is identified. The health care authority approves all error correction actions and determines if additional recourse, which may include retroactive enrollment, is warranted.

(2) If a SEBB organization errs and enrolls a school employee or their dependents in SEBB insurance coverage when they are not eligible and there was no fraud or intentional misrepresentation by the school employee involved, premiums and any applicable premium surcharges already paid by the school employee will be refunded by the SEBB organization to the school employee. The error will be corrected prospec-

tively with termination of benefits effective the first day of the month following the date the error is identified.

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

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))~~ benefits coverage for all eligible school employees and their 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 ~~((insurance))~~ benefits coverage for school employees.

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

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

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

WAC 182-30-075 ~~Subscriber address requirements ((as part of participation in school employees benefits board (SEBB) benefits)).~~ (1) All school employees must provide their SEBB organization with their correct ~~((mailing))~~ address and ~~((provide any))~~ update ~~((s as needed in the future))~~ their address if it changes. ~~((All other))~~ A subscriber ~~((s))~~ on continuation coverage must provide the SEBB program with their correct ~~((mailing))~~ address and ~~((provide any))~~ updates to their ~~((mailing))~~ address if it changes.

(2) School employees who are appealing a decision to the school employees benefits board (SEBB) program must update their address as required in WAC 182-32-055.

NEW SECTION

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 SEBB medical provided the school employee is eligible to waive SEBB medical and elects to waive as described in WAC 182-31-080. The required forms must be returned to the school employee's SEBB organization. Their SEBB organization must receive the forms no later than thirty-one days after the school employee becomes eligible for SEBB benefits under WAC 182-31-040.

(i) The school employee may enroll in supplemental life, supplemental accidental death and dismemberment (AD&D), and supplemental long-term disability (LTD) insurance up to the guaranteed issue without evidence of insurability if the required forms are returned to the school employee's SEBB organization or contracted vendor. The school employee may apply for enrollment in supplemental life, supplemental AD&D, and supplemental LTD insurance over the guaranteed issue at any time during the calendar year by submitting the required form to the contracted vendor for approval.

(ii) 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 thirty-one days after the employee becomes eligible for SEBB benefits.

(iii) 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) or dependent care assistance program (DCAP) or both, except as limited by subsection (4) of this section. To enroll in these supplemental 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 thirty-one 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 or accidental death and dismemberment (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 thirty-one days of the school employee becoming eligible, their enrollment will be as follows for those elections not received within thirty-one days:

(i) A medical plan as determined by the health care authority (HCA);

(ii) A dental plan as determined by the HCA;

(iii) A vision plan as determined by the HCA;

(iv) Basic life insurance;

(v) Basic AD&D insurance;

(vi) Basic LTD insurance;

(vii) Dependents will not be enrolled; and

(viii) A tobacco use surcharge will be incurred as described in WAC 182-30-050 (1)(b).

(2) The employer contribution toward SEBB benefits coverage ends according to WAC 182-31-050.

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

(a) The school employee must complete the required forms indicating their enrollment elections, including an election to waive SEBB medical if the school employee chooses to waive SEBB medical 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 thirty-one days after the school employee regains eligibility:

(i) A school employee who self-paid for supplemental SEBB life insurance coverage or SEBB AD&D insurance coverage after losing eligibility will have that level of coverage reinstated without evidence of insurability effective the first day of the month in which the school employee regains eligibility for the employer contribution toward SEBB benefits;

(ii) A school employee who was eligible to continue supplemental life or supplemental AD&D but discontinued that SEBB insurance 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 supplemental LTD insurance elections. Their supplemental LTD insurance will be automatically reinstated effective the first day of the month 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 thirty-one days of the school employee's enrollment in SEBB, insurance coverage will be as described in subsection (1)(b)(i) through (v) and (vii) of this section.

(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 or DCAP or both, except as limited by subsection (4) of this section. To enroll in these supplemental SEBB benefits, the school employee must return the required form to the contracted vendor of their SEBB organization. The contracted vendor or school employee's SEBB organization must receive the form no later than thirty-one 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 and that is anticipated to be eligible for SEBB benefits in the same year, the school employee may not resume participation in DCAP or medical FSA until the beginning of the next plan year, unless the time between employments is thirty 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 thirty-one days after the 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 insurance coverage elections also remain the same when a school employee has a break in employment that does not interrupt their employer contribution toward SEBB insurance coverage.

(6) A school employee returning to the same SEBB organization who is anticipated to work at least six hundred thirty 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.

NEW SECTION

WAC 182-30-081 School employees benefits board (SEBB) first annual open enrollment. (1) During the SEBB first annual open enrollment a school employee who is eligible for the employer contribution must:

(a) Complete the required forms indicating their enrollment elections, including an election to waive SEBB medical and elects to waive as described in WAC 182-31-080 (1)(b). Their SEBB organization must receive the required forms no later than the last day of the first SEBB annual open enrollment.

(b) Enroll in supplemental life, supplemental AD&D, and supplemental LTD insurance if they want to purchase up to the guaranteed issue amount without providing evidence of insurability. Their SEBB organization, or contracted vendor, must receive the forms no later than the last day of the first SEBB annual open enrollment. A school employee may apply for enrollment in supplemental life, supplemental AD&D, and supplemental LTD insurance over the guaranteed issue at any time during the calendar year by submitting the required form and providing evidence of insurability to the contracted vendor for approval.

(c) If eligible to participate in the salary reduction plan (see WAC 182-31-060), elect participation in the medical flexible spending account (FSA) or the dependent care assistance program (DCAP) if they want to participate in those SEBB benefits for the 2020 calendar year. The contracted vendor must receive the school employee's election no later than the last day of the first SEBB annual open enrollment.

(d) Be automatically enrolled in the premium payment plan upon enrollment in SEBB medical so school employee medical premiums are taken on a pretax basis. To opt out of the premium payment plan, a school employee must complete the required form and return it to their SEBB organization no later than the end of SEBB first annual open enrollment.

(e) Complete the surcharge attestation requirements in WAC 182-30-050.

(f) If the school employee wants to enroll dependents eligible under WAC 182-31-140. The school employee must follow the requirements in WAC 182-30-150(5).

(2) If a school employee's SEBB organization does not receive the self-pay subscribers required forms indicating medical, dental, vision, life insurance, and LTD insurance elections, and the school employee's tobacco use status attestation by the end of open enrollment, their enrollment will be as follows for those elections not received:

- (a) A medical plan as determined by the health care authority (HCA);
- (b) A dental plan as determined by the HCA;
- (c) A vision plan as determined by the HCA;
- (d) Basic life insurance;
- (e) Basic AD&D insurance;
- (f) Basic LTD insurance;
- (g) Dependents will not be enrolled; and
- (h) A tobacco use surcharge will be incurred as described in WAC 182-30-050 (1)(b).

NEW SECTION

WAC 182-30-085 What happens if my health plan becomes unavailable due to a change in contracted service area or eligibility for medicare?

(1) A subscriber must select a new health plan during the school employees benefits board (SEBB) annual open enrollment period when their previously selected health plan becomes unavailable due to a change in contracting service area. The required forms must be received no later than the last day of the annual open enrollment.

(a) A school employee must submit the required form to their SEBB organization electing their new health plan.

(b) A subscriber on continuation coverage must submit the required forms to the SEBB program electing their new health plan.

(c) The effective date of the change in their health plan will be January 1st of the following year.

(2) A subscriber who fails to elect a new health plan within the required time period as required in subsection (1) of this section will be enrolled in a health plan designated by the director or their designee.

(3) A subscriber must elect a new health plan when their previously selected health plan becomes unavailable due to the subscriber or subscriber's dependent ceasing to be eligible for their current health plan because of enrollment in medicare. The required forms must be received no later than sixty days after the date the health plan becomes unavailable.

(a) A school employee must submit the required forms to their employing agency electing their new health plan.

(b) A subscriber on continuation coverage must submit the required forms to the SEBB program electing their new health plan.

(c) The effective date of the change in their health plan will be the first day of the month following the later of the date the health plan becomes unavailable or the date the form is received. If that day is the first of the month, the change in the health plan begins on that day.

(4) A subscriber who fails to elect a new health plan within the required time period as required in subsection (3) of this section who is enrolled in a high deductible health plan (HDHP) with a health savings account (HSA), will not be eligible to receive contributions to the HSA, and will be liable for any tax penalties resulting from contributions made when they are no longer eligible.

(5) A subscriber enrolled in a health plan as described in subsection (2) or (4) of this section may not change health plans except as allowed in WAC 182-30-090.

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

(1) **During the annual open enrollment:** A subscriber((s)) 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. ~~((All other))~~ A subscriber((s)) 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((s)) 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 an employee gaining initial eligibility for SEBB benefits. 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. To make a health plan change, the subscriber must submit the required enrollment forms. The forms must be received no later than sixty days after the event occurs. A school employee submits the enrollment forms to their SEBB organization. ~~((All other))~~ A subscriber((s)) on continuation coverage submits the enrollment forms to the SEBB program. In addition to the required forms, a subscriber((s)) 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 ~~((latter))~~ 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. 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) The subscriber's dependent has a change in their own employment status that affects their eligibility for the employer contribution under their employer-based group health plan;

(Exception:) ~~((For the purposes of))~~ As used in (d) of this subsection special open enrollment "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.

(e) Subscriber or a subscriber's dependent has a change in residence that affects health plan availability. If the subscriber moves and the subscriber's current health plan is not available in the new location the subscriber must select a new health plan, otherwise there will be limited network providers and covered services;

Exception: A dental plan is considered available if a provider is available within 50 miles of the new address.

(f) 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);

(g) Subscriber or a subscriber's dependent becomes entitled to 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;

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

(i) Subscriber or a subscriber's dependent's current health 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;

(j) 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 (~~((for a specific condition or ongoing course of treatment))~~). 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 (~~((for up to ninety days or until medically stable))~~);

(ii) Treatment following a recent organ transplant (~~((within the last twelve months))~~);

(iii) A scheduled surgery (~~((within the next sixty days (elective procedures within the next sixty days do not qualify for continuity of care))~~);

(iv) Recent major surgery still within the postoperative period (~~((of up to eight weeks))~~); or

(v) (~~((Third trimester of))~~) Treatment for a high-risk pregnancy.

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

WAC 182-30-100 When may a ~~((subscriber))~~ school employee enroll or revoke an election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP)? A ~~((subscriber))~~ school employee who is eligible to participate in the salary reduction plan as described in WAC 182-31-060 may enroll, or revoke their election and make a new election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP) at the following times:

(1) When newly eligible under WAC 182-31-040 and enrolling as described in WAC 182-30-080(1).

(2) **During annual open enrollment:** An eligible ~~((subscriber))~~ school employee may elect to enroll in or opt out of ~~((their))~~ participation under the premium payment plan during the annual open enrollment ~~((; school employees submit))~~ by submitting the required form to their school employees benefits board (SEBB) organization ~~((; all other subscribers submit the form to the health care authority (HCA)))~~. An eligible ~~((subscriber))~~ school employee may elect to enroll or reenroll in the medical FSA, DCAP, or both during the annual open enrollment by submitting the required forms to their SEBB organization, the HCA or applicable contracted vendor as instructed. All required forms must be received no later than the last day of the annual open enrollment. The enrollment or new election becomes effective January 1st of the following year.

Note: ~~((Subscribers))~~ School employees enrolled in a ~~((consumer-directed))~~ high deductible health plan ((CDHP)) (HDHP) with a health savings account (HSA) cannot also enroll in a medical FSA in the same plan year. ~~((Subscribers))~~ School employees who elect both will only be enrolled in the ~~((CDHP))~~ HDHP with a HSA.

(3) **During a special open enrollment:** A ~~((subscriber))~~ school employee who is eligible to participate in the salary reduction plan may enroll or revoke their election and make a new election under the premium payment plan, medical FSA, or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or change in election 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. To make a change or enroll, the school employee must submit the required form ~~((s))~~ to their SEBB organization ~~((; all other subscribers must submit the required forms to HCA))~~. The SEBB organization ~~((or HCA))~~ must receive the required form and evidence of the event that created the special open enrollment no later than sixty days after the event occurs.

For purposes of this section, an eligible dependent includes any person who qualifies as a dependent of the school employee for tax purposes under IRC 26 U.S.C. Sec. 152 without regard to the income limitations of that section. It does not include a state registered domestic partner unless the state registered domestic partner otherwise qualifies as a dependent for tax purposes under IRC 26 U.S.C. Sec. 152.

(a) **Premium payment plan.** A ~~((subscriber))~~ school employee may enroll or revoke their election and elect to opt out of the premium payment plan when any of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or election to opt out will be effective the first day of the month following the ~~((latter))~~ later of the event

date or the date the required form is received. If that day is the first of the month, the enrollment or change in election 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, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) ((Subscriber)) School employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership when the dependent is a tax dependent of the ((subscriber)) school employee;
- Birth, adoption, or when the ((subscriber)) school employee 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's)) School employee's dependent no longer meets SEBB eligibility criteria because:

- ((Subscriber)) School employee has a change in marital status;
- ((Subscriber's)) School employee's domestic partnership with a state registered domestic partner who is a tax dependent is dissolved or terminated;
- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

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

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

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

Exception: For the purposes of special open enrollment, "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.

(vi) ((Subscriber)) School employee or a ((subscriber's)) school employee'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 annual open enrollment;

(vii) ((Subscriber)) School employee or a ((subscriber's)) school employee's dependent has a change in residence that affects health plan availability;

(viii) ((Subscriber's)) School employee'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 resulted in the dependent losing their health insurance;

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

(x) ~~((Subscriber))~~ School employee or a ~~((subscriber's))~~ school employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the ~~((subscriber))~~ school employee or a ~~((subscriber's))~~ school employee's dependent loses eligibility for coverage under medicaid or CHIP;

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

(xii) ~~((Subscriber))~~ School employee or a ~~((subscriber's))~~ school employee's dependent becomes entitled to coverage under medicare or the ~~((subscriber))~~ school employee or a ~~((subscriber's))~~ school employee's dependent loses eligibility for coverage under medicare;

(xiii) ~~((Subscriber))~~ School employee or a ~~((subscriber's))~~ school employee's dependent's current health plan becomes unavailable because the school employee or enrolled dependent is no longer eligible for a HSA. The HCA may require evidence that the ~~((subscriber))~~ school employee or a ~~((subscriber's))~~ school employee's dependent is no longer eligible for a HSA;

(xiv) ~~((Subscriber))~~ School employee or a ~~((subscriber's))~~ school employee's dependent experiences a disruption of care for active and ongoing treatment, that could function as a reduction in benefits for the ~~((subscriber))~~ school employee or a ~~((subscriber's))~~ school employee's dependent ~~((for a specific condition or ongoing course of treatment))~~. The ~~((subscriber))~~ school employee may not change their health plan election if the ~~((subscriber's))~~ school employee's or dependent's physician stops participation with the ~~((subscriber's))~~ school employee'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:

- Active cancer treatment such as chemotherapy or radiation therapy ~~((for up to ninety days or until medically stable))~~;
- Treatment following a recent organ transplant ~~((within the last twelve months))~~;
- A scheduled surgery ~~((within the next sixty days (elective procedures within the next sixty days do not qualify for continuity of care))~~);
- Recent major surgery still within the postoperative period ~~((of up to eight weeks))~~; or
- ~~((Third trimester of))~~ Treatment for a high-risk pregnancy.

(xv) ~~((Subscriber or a subscriber's))~~ School employee or school employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan.

If the subscriber is having premiums taken from payroll on a pre-tax basis, a plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

(b) **Medical FSA.** A ~~((subscriber))~~ school employee may enroll or revoke their election and make a new election under the medical FSA when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the ~~((latter))~~ later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the SEBB organization ~~((or the HCA))~~. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or parti-

al support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) (~~(Subscriber)~~) School employee acquires a new dependent due to:

- Marriage;
- Registering a state registered domestic partnership (~~(if the state registered domestic partner qualifies as)~~) when the dependent is a tax dependent of the (~~(subscriber)~~) school employee;

- Birth, adoption, or when the (~~(subscriber)~~) school employee 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's)~~) School employee's dependent no longer meets SEBB (~~(subscriber or)~~) eligibility criteria because:

- School employee has a change in marital status;
- (~~(Subscriber's)~~) School employee's domestic partnership with a state registered domestic partner who qualifies as a tax dependent is dissolved or terminated;

- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;

- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or

- An eligible dependent dies.

(iii) (~~(Subscriber)~~) School employee or a (~~(subscriber's)~~) school employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by HIPAA;

(iv) (~~(Subscriber)~~) School employee or a (~~(subscriber's)~~) school employee's dependent has a change in employment status that affects the school employee's or a dependent's eligibility for the medical FSA;

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

(vi) (~~(Subscriber)~~) School employee or a (~~(subscriber's)~~) school employee's dependent becomes entitled to coverage under medicaid or CHIP, or the school employee or a school employee's dependent loses eligibility for coverage under medicaid or CHIP;

(vii) (~~(Subscriber)~~) School employee or a (~~(subscriber's)~~) school employee's dependent becomes entitled to coverage under medicare.

(c) **DCAP.** A (~~(subscriber)~~) school employee may enroll or revoke their election and make a new election under the DCAP when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or new election will be effective the first day of the month following the (~~(latter)~~) later of the event date or the date the required form and evidence of the event that created the special open enrollment is received by the SEBB organization (~~(or the HCA)~~). If that day is the first of the month, the enrollment or change in election 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, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) (~~(Subscriber)~~) School employee acquires a new dependent due to:

- Marriage;
 - Registering a domestic partnership if the state registered domestic partner qualifies as a tax dependent of the ~~((subscriber))~~ school employee;
 - Birth, adoption, or when the ~~((subscriber))~~ school employee 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))~~ School employee or a ~~((subscriber's))~~ school employee's dependent has a change in employment status that affects the school employee's or a dependent's eligibility for DCAP;
- (iii) ~~((Subscriber or a subscriber's))~~ School employee or school employee'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 annual open enrollment;
- (iv) ~~((Subscriber))~~ School employee changes dependent care provider; the change to the DCAP election amount can reflect the cost of the new provider;
- (v) ~~((Subscriber or a subscriber's))~~ School employee or school employee's spouse experiences a change in the number of qualifying individuals as defined in IRC 26 U.S.C. Sec. 21 (b)(1);
- (vi) ~~((Subscriber))~~ School employee's dependent care provider imposes a change in the cost of dependent care; ~~((subscriber))~~ school employee may make a change in the DCAP election amount to reflect the new cost if the dependent care provider is not a qualifying relative of the ~~((subscriber))~~ school employee as defined in IRC 26 U.S.C. Sec. 152.

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

WAC 182-30-120 Advertising or promotion of school employees benefits board (SEBB) benefit plans. (1) In order to assure equal and unbiased representation of school employees benefits board (SEBB) benefits, contracted vendors must comply with all of the following:

- (a) All materials describing SEBB benefits must be prepared by or approved by the health care authority (HCA) before use.
- (b) Distribution or mailing of all benefit descriptions must be performed by or under the direction of the HCA.
- (c) All media announcements or advertising by a contracted vendor which includes any mention of the "school employees benefits board," "SEBB," "health care authority," "HCA," any reference to benefits for "school employees," or any group of enrollees covered by SEBB benefits, must receive the advance written approval of the HCA.

(2) Failure to comply with any or all of these requirements by a SEBB contracted vendor or subcontractor may result in contract termination by the ~~((authority))~~ HCA, refusal to continue or renew a contract with the noncomplying party, or both.

NEW SECTION

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 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 one hundred eighty hours and no more 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);
- (c) Dependent care assistance program (DCAP); and

(d) Supplemental life 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).

(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 19-01-055, filed 12/14/18, effective 1/14/19)

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) ((d)(i)). This chapter does not address where a SEBB organization has locally negotiated to offer SEBB benefits to school employees who are anticipated to work less than six hundred thirty hours in a school year as authorized in RCW 41.05.740 (6)(e)).

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

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 ~~((a once yearly))~~ 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, or enroll in coverage, or waive enrollment in SEBB medical. School employees ~~((participating))~~ eligible to participate in the salary reduction plan may enroll in or change their election under the dependent care assistance program (DCAP), ~~((and))~~ or the medical flexible spending arrangement (FSA). They may also enroll in or opt out of the premium payment plan.

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

"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 health plan coverage 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 ~~((board))~~ 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.

~~(("Disability insurance" includes any basic long-term disability insurance paid for by the school employees benefits board (SEBB) or organization and any supplemental long-term disability or supplemental short-term disability paid for by the employee.))~~

"Documents" means papers, letters, writings, electronic mail, electronic files, or other printed or written items. ~~((Documents include evidence needed to verify eligibility for SEBB benefits and complete the enrollment process.))~~

"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 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 ~~((182-31-060))~~ 182-30-130 and 182-31-040.

"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.

"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 ~~((school employees benefits board))~~ SEBB 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 lack of funds or a SEBB organization's organizational change.

"Life insurance" ((for eligible school employees includes any)) means basic life insurance ((and accidental death and dismemberment (AD&D) insurance)) paid for by ((the school employees benefits board (+)) SEBB((+)) organization, as well as supplemental life insurance ((and supplemental AD&D insurance)) offered to and paid for by school employees for themselves and their dependents.

"LTD insurance" or "long-term disability insurance" ((includes)) means any basic long-term disability insurance paid for by the ((school employees benefits board (+)) SEBB((+)) organization and ((any)) supplemental long-term disability insurance offered to and paid for by the school employee.

"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 ~~((this))~~

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

"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. ((Chapter 41.05 RCW))

"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 ninety-five 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 ninety-five percent of the actuarial value of PEBB UMP Classic benefits.

"Public employees benefits board" or "PEBB" means the board established under RCW 41.05.055.

"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, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School employee" means:

- All employees of school districts ((, educational service 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.

"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 established in RCW 41.05.740.

"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, ((~~or~~)) 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).

"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. Ad-

ditionally, school employees may enroll in or waive enrollment in SEBB medical. School employees eligible to participate in the salary reductions plan may enroll in or revoke their election under the DCAP, medical 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 who has been determined eligible by the SEBB program or SEBB organizations, 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, accidental death and dismemberment (AD&D) insurance coverage, or long-term disability 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.

"Waive" means an eligible school employee affirmatively declining enrollment in a SEBB health plan because the school employee is enrolled in other employer-based group medical, TRICARE plans, or medicare as allowed under WAC 182-31-080.

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

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

WAC 182-31-030 What are the obligations of a school employees benefits board (SEBB) organization in the application of school employee eligibility?

(1) All school employees benefits board (SEBB) organizations must carry out all actions, policies, and guidance issued by the SEBB program which are necessary for the operation of benefit plans, education (~~about benefits for~~) of school employees, claims administration, and appeals (~~processing~~) process including those described in chapters 182-30, 182-31, and 182-32 WAC. SEBB organizations must:

(a) Use the methods provided by the SEBB program to determine eligibility and enrollment in benefits;

(b) Provide eligibility determination reports with content and in a format designed and communicated by the SEBB program;

(c) Support SEBB program auditing of eligibility and enrollment decisions as needed; and

(d) Carry out corrective action and pay any penalties imposed by the health care authority (HCA) and established by the SEBB when the SEBB organization's eligibility determinations fail to comply with the criteria under these rules.

(2) SEBB organizations must determine school employee (~~and their dependents~~) eligibility for SEBB benefits and the employer contribution according to the criteria in WAC 182-31-040 and 182-31-050. SEBB organizations must:

(a) Notify newly hired school employees of SEBB program rules and guidance for eligibility and appeal rights;

(b) Inform a school employee in writing whether or not they are eligible for SEBB benefits upon employment. The written communication must include information about the school employee's right to appeal eligibility and enrollment decisions;

(c) Routinely monitor all school employees work hours to establish eligibility and maintain the employer contribution toward SEBB (~~insurance~~) benefits coverage;

(d) Identify when a previously ineligible school employee becomes eligible or a previously eligible school employee loses eligibility; and

(e) Inform a school employee in writing whether or not they are eligible for benefits and the employer contribution whenever there is a change in work patterns such that the school employee's eligibility status changes. (~~At the same time~~) Whenever this occurs, SEBB organizations must inform the school employee(~~s~~) of the right to appeal eligibility and enrollment decisions.

(3) SEBB organizations must determine school employee's dependents eligibility for SEBB benefits according to the criteria in WAC 182-31-140.

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

WAC 182-31-040 How do school employees establish eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and when (~~does~~) do SEBB (~~insurance~~) benefits coverage begin? (1) Eligibility shall be determined solely by the criteria that most closely describes the school employee's work circumstance.

(2) (~~All hours worked by an employee in their capacity as a school employee must be included in the calculation of hours for determining eligibility.~~

~~(3))~~ School employee eligibility criteria:

(a) A school employee is eligible for the employer contribution towards school employees benefits board (SEBB) benefits if they are anticipated to work at least six hundred thirty hours per school year. The eligibility effective date for a school employee eligible under this subsection shall be determined as follows:

(i) If the school employee's first day of work is on or after September 1st but not later than the first day of school for the current school year as established by the SEBB organization, they are eligible for the employer contribution on the first day of work; or

(ii) If the school employee's first day of work is at any other time during the school year, they are eligible for the employer contribution on that day.

(b) A school employee who is not anticipated to work at least six hundred thirty hours (~~per~~) in the school year becomes eligible for the employer contribution towards SEBB benefits on the date their work pattern is revised in such a way that they are now anticipated to work six hundred thirty hours in the school year.

(c) A school employee who is not anticipated to work at least six hundred thirty hours in the school year becomes eligible for the employer contribution towards SEBB benefits on the date they actually worked six hundred thirty hours in the school year.

(d) A school employee (~~may establish eligibility for the employer contribution toward SEBB benefits by stacking of hours from multiple positions within one SEBB organization.~~

~~(4))~~ who is not anticipated to work six hundred thirty hours within the school year because of the time of year they are hired but is anticipated to work at least six hundred thirty hours the next school year, establishes eligibility for the employer contribution toward SEBB benefits as of their first working day if they are:

(i) A nine to ten month school employee anticipated to be compensated for at least seventeen and one-half hours a week in six of the last eight weeks counting backwards from the week that contains the last day of school; or

(ii) A twelve month school employee anticipated to be compensated for at least seventeen and one-half hours a week in six of the last eight weeks counting backwards from the week that contains August 31st, the last day of the school year.

(3) All hours worked by an employee in their capacity as a school employee must be included in the calculation of hours for determining eligibility.

(4) A school employee may establish eligibility for the employer contribution toward SEBB benefits by stacking of hours from multiple positions within one SEBB organization. A school employee may not gain eligibility by stacking of hours from multiple SEBB organizations.

(5) A school employee is presumed eligible for the employer contribution at the start of the school year, as described in subsection (2)(a) of this section, if they:

(a) Worked at least six hundred thirty hours in each of previous two school years; and

(b) Are returning to the same type of position (teacher, paraeducator, food service worker, custodian, etc.) or combination of positions with the same SEBB organization.

Note: A SEBB organization rebuts this presumption by notifying the school employee, in writing, of the specific reasons why the school employee is not anticipated to work at least six hundred thirty hours in the current school year and how to appeal the eligibility determination.

(6) When SEBB (~~insurance coverage~~) benefits begin(~~s~~):

(a) For a school employee who establishes eligibility under subsection (~~(3)~~) (2)(a)(i) of this section SEBB (~~insurance coverage~~) benefits begin(~~s~~) on the first day of work for the new school year.

(b) For a school employee who establishes eligibility under subsection (~~(3)~~) (2)(a)(ii), (b), (~~or~~) (c), or (d) of this section, SEBB insurance coverage begins on the first day of the month following the date the school employee becomes eligible for the employer contribution towards SEBB benefits.

(7) If the school employee is not eligible under subsections (1) through (5) of this section, they may be eligible for SEBB benefits if

their SEBB organization is engaging in local negotiations regarding eligibility for school employees as described in WAC 182-30-130.

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

WAC 182-31-050 When does eligibility for the employer contribution for school employees benefits board (SEBB) benefits end? (1) The employer contribution toward school employees benefits board (SEBB) benefits ends the last day of the month in which the school year ends. The employer contribution toward SEBB benefits will end earlier than the end of the school year if one of the following occurs:

(a) The SEBB organization terminates the employment relationship. In this case, eligibility for the employer contribution ends the last day of the month in which the employer-initiated termination notice is effective;

(b) The school employee terminates the employment relationship. In this case, eligibility for the employer contribution ends the last day of the month in which the school employee's resignation is effective; or

(c) The school employee's work pattern is revised such that the school employee is no longer anticipated to work six hundred thirty hours during the school year. In this case, eligibility for the employer contribution ends as of the last day of the month in which the change is effective.

(2) If the SEBB organization deducted the school employee's portion of the premium for SEBB ((insurance coverage)) benefits from their pay after the school employee was no longer eligible for the employer contribution, SEBB ((insurance coverage)) benefits end((s)) the last day of the month for which school employee premiums were deducted.

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

WAC 182-31-060 Who is eligible to participate in the salary reduction plan? 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 ((provided they are)). School employees eligible for ((school employees benefits board (-)) SEBB((+)) benefits as described in WAC 182-31-040 ((and they)) may also elect to participate in the medical FSA or DCAP programs provided they elect participation within the time frames described in WAC 182-30-100.

NEW SECTION

WAC 182-31-070 Is dual enrollment in school employees benefits board (SEBB) prohibited? School employees benefits board (SEBB) health plan coverage is limited to a single enrollment per individual.

(1) An individual who has more than one source of eligibility for enrollment in SEBB health plan coverage (called "dual eligibility") is limited to one enrollment.

(2) An eligible school employee may waive SEBB medical and enroll as a dependent under the health plan of their spouse, state registered domestic partner, or parent as described in WAC 182-31-080.

(3) A dependent enrolled in a SEBB health plan who becomes eligible for SEBB benefits as a school employee must elect to enroll in SEBB benefits as described in WAC 182-30-080(1). This includes making an election to enroll in or waive enrollment in SEBB medical as described in WAC 182-31-080 (1)(a).

(a) If the school employee does not waive enrollment in SEBB medical, the school employee is not eligible to remain enrolled in their spouse's, state registered domestic partner's, or parent's SEBB medical as a dependent. If the school employee's spouse, state registered domestic partner, or parent does not remove the school employee (who is enrolled as a dependent) from their subscriber account, the SEBB program will terminate the school employee's enrollment as a dependent the last day of the month before the school employee's enrollment in SEBB benefits begins as described in WAC 182-31-040.

Exception: An enrolled dependent who becomes newly eligible, at the start of the school year, for SEBB benefits as a school employee could be dual-enrolled in SEBB coverage for one month. This exception is only allowed for the first month the dependent is enrolled as a school employee.

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

(4) A child who is eligible for medical, dental, and vision under two subscribers may be enrolled as a dependent under the health plan of only one subscriber.

(5) When a school employee is eligible for the employer contribution towards SEBB benefits due to employment in more than one SEBB organization the following provisions apply:

(a) When a school employee is eligible for the employer contribution during a school year under WAC 182-31-040 and 182-30-130 the SEBB organization that has determined the school employee eligible under WAC 182-31-040 must make the employer contribution;

(b) If the school employee is eligible for the employer contribution under WAC 182-31-040 at two different SEBB organizations, the school employee must choose to enroll under only one SEBB organization;

(c) If the school employee is eligible for the employer contribution under WAC 182-30-130 at two different SEBB organizations, the school employee must choose to enroll under only one SEBB organization;

(d) If the school employee loses eligibility under one SEBB organization they may choose to enroll in the other SEBB organization they were eligible for the employer contribution at. The school employee must notify their other SEBB organization they were eligible for the employer contribution at no later than sixty days from the date of loss of the first SEBB coverage in order to transfer coverage;

(e) The school employee's elections remain the same when a school employee transfers their enrollment under one SEBB organization to another SEBB organization without a break in SEBB benefits for one month or more, as described in (d) of this subsection.

NEW SECTION

WAC 182-31-080 When may a school employee waive enrollment in school employees benefits board (SEBB) medical and when may they enroll in SEBB medical after having waived enrollment? A school employee may waive enrollment in school employees benefits board (SEBB) medical if they are enrolled in other employer-based group medical, a TRICARE plan, or medicare as described in subsection (1)(a) through (c) of this section. A special open enrollment event must be an event other than a school employee gaining initial eligibility for SEBB benefits. A school employee who waives enrollment in SEBB medical must enroll in dental, vision, basic life insurance, basic accidental death and dismemberment (AD&D) insurance, and basic long-term disability insurance.

(1) To waive enrollment in SEBB medical, the school employee must submit the required form to their SEBB organization at one of the following times:

(a) **When the school employee becomes eligible:** A school employee may waive SEBB medical when they become eligible for SEBB benefits. The school employee must indicate their election to waive enrollment in SEBB medical on the required form and submit the form to their SEBB organization. The SEBB organization must receive the form no later than thirty-one days after the date the school employee becomes eligible for benefits (see WAC 182-30-080). SEBB medical will be waived as of the date the school employee becomes eligible for SEBB benefits.

(b) **During the annual open enrollment:** A school employee may waive SEBB medical during the annual open enrollment. The required form must be received by the school employee's SEBB organization before the end of the annual open enrollment. SEBB medical will be waived beginning January 1st of the following year.

(c) **During a special open enrollment:** A school employee may waive SEBB medical during a special open enrollment as described in subsection (4) of this section. The school employee must submit the required form to their SEBB organization. The SEBB organization must receive the form no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the school employee must provide evidence of the event that creates the special open enrollment to their SEBB organization. SEBB medical will be waived the last day 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, SEBB medical will be waived the last day of the previous month. 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, SEBB medical will be waived the last day of the previous month.

(2) If a school employee waives SEBB medical, the school employee may not enroll dependents in SEBB medical.

(3) Once SEBB medical is waived, the school employee is only allowed to enroll in SEBB medical at the following times:

(a) During the annual open enrollment. The required form must be received by the school employee's SEBB organization before the end of the annual open enrollment. SEBB medical will begin January 1st of the following year.

(b) During a special open enrollment. A special open enrollment allows a school employee to revoke their election and make a new election outside of the annual open enrollment. A special open enrollment may be created when one of the events described in subsection (4) of this section occurs. The school employee must submit the required form to their SEBB organization. The SEBB organization must receive the form no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the school employee must provide evidence of the event that creates the special open enrollment to the SEBB organization. SEBB medical will begin the first day 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, coverage is effective 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, SEBB medical will begin for a school employee on the first day of the month in which the event occurs (see WAC 182-31-150(3)) for the SEBB medical effective date of a newly born child, newly adopted child, spouse, or state-registered domestic partner).

(4) **Special open enrollment:** Any one of the events in (a) through (k) of this subsection may create a special open enrollment. The change in enrollment must be allowable under the Internal Revenue Code (IRC) and Treasury regulations, and correspond to and be consistent with the event that creates the special open enrollment for the school employee, the school employee's dependent, or both.

(a) School employee acquires a new dependent due to:

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

(ii) Birth, adoption, or when the school employee 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) School employee or a school employee'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) School employee has a change in employment status that affects the school employee's eligibility for their employer contribution toward their employer-based group medical;

(d) The school employee's dependent has a change in their own employment status that affects their eligibility for the employer contribution under their employer-based group medical;

Note: As used in (d) 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.

(e) School employee or a school employee's dependent has a change in enrollment under an employer-based group medical plan during its annual open enrollment that does not align with the SEBB program's annual open enrollment;

(f) School employee'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;

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

(h) School employee or a school employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the school employee or a school employee's dependent loses eligibility for coverage under medicaid or CHIP;

(i) School employee or a school employee's dependent becomes eligible for state premium assistance subsidy for SEBB health plan coverage from medicaid or a state children's health insurance program (CHIP);

(j) School employee or a school employee's dependent becomes eligible and enrolls in a TRICARE plan, or loses eligibility for a TRICARE plan;

(k) School employee becomes eligible and enrolls in medicare, or loses eligibility for medicare.

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

WAC 182-31-090 When is an enrollee eligible to continue school employees benefits board (SEBB) ~~((health plan coverage))~~ benefits under Consolidated Omnibus Budget Reconciliation Act (COBRA) ((and where may school employee survivors go for additional coverage options))?

(1) ((An enrollee)) A school employee or a school employee's dependent who loses eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and who qualifies for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) may continue coverage for all or any combination of medical, dental, or vision.

(2) A school employee or a school employee's dependent may continue ~~((school employees benefits board (SEBB)))~~ SEBB ~~((+))~~ health plan coverage under ~~((the federal Consolidated Omnibus Budget Reconciliation Act (COBRA)))~~ COBRA ~~((+))~~ by self-paying the premium and applicable premium surcharges set by the health care authority (HCA):

Note: Based on RCW 26.60.015 and SEBB policy resolution SEBB 2018-01 a ~~((school employee's))~~ subscriber's state registered domestic partner and the state registered domestic partner's children may continue SEBB ~~((insurance coverage))~~ benefits on the same terms and conditions as a legal spouse or child under COBRA.

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

(b) The ~~((enrollee's))~~ first premium payment under COBRA coverage and applicable premium surcharges are due to the HCA no later than forty-five days after the election period ends as described in (a) of this subsection. Following the enrollee's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-30-040;

~~((Enrollees who request to voluntarily terminate their COBRA coverage must do so in writing. The written termination request must be received by the SEBB program.))~~ COBRA continuation coverage enrollees who voluntarily terminate their COBRA coverage will not be eligi-

ble to reenroll in COBRA coverage unless they regain eligibility as described in WAC 182-31-040. Those who request to terminate their COBRA coverage must do so in writing. COBRA 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 enrollee's termination request, whichever is later. If the termination request is received on the first day of the month, COBRA coverage will end on the last day of the previous month; ~~((and))~~

~~(d) A school employee enrolled in a medical flexible spending arrangement (FSA) ((enrollees who on the date of the qualifying event, have a greater number of remaining benefits than remaining contribution payments for the current year,)) and the school employee's dependents will have an opportunity to continue making contributions to their medical FSA by electing COBRA if on the date of the qualifying event, as described under 42 U.S.C. Sec. 300bb-3, the school employee's medical FSA has a greater amount in remaining benefits than remaining contribution payments for the current year. The election must be received by the contracted vendor no later than sixty days from the date the SEBB health plan coverage ended or from the postmark date on the election notice sent by the contracted vendor, whichever is later. The ((enrollee's)) first premium payment under COBRA coverage is due to the contracted vendor no later than forty-five days after the election period ends as described ((below)) above. ((The enrollee's election must be received by the contracted vendor no later than sixty days from the date the enrollee's SEBB health plan coverage ended or from the postmark date on the election notice sent by the contracted vendor, whichever is later.~~

~~(2) A school employee or a school employee's dependent who loses eligibility for the employer contribution toward SEBB insurance coverage and who qualifies for continuation coverage under COBRA may continue medical, dental, or both.~~

~~(3) A school employee or a school employee's dependent who loses eligibility for continuation coverage described in WAC 182-31-110 but who has not used the maximum number of months allowed under COBRA may continue medical, dental, or both for the remaining difference in months.~~

~~(4) A school employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible school employee may be eligible to enroll or defer enrollment as a survivor under PEBB retiree insurance coverage as described in WAC 182-12-265.)~~

(3) Medical, dental, and vision coverage under COBRA begin on the first day of the month following the day the COBRA enrollee loses eligibility for the employer contribution as described in WAC 182-31-050.

NEW SECTION

WAC 182-31-091 School employees benefits boards (SEBB) continuation coverage for school employees and their dependents who are not eligible for SEBB benefits as of January 1, 2020, and for dependents who were already on a SEBB organization's continuation coverage as of December 31, 2019? School employees and their dependents may gain temporary eligibility for school employees benefits board (SEBB) benefits, on a self-pay basis, if they meet the following criteria:

(1) Based on policy resolution SEBB resolution 2019-06 a school employee and their dependents who are enrolled in medical, dental, or vision under a group plan offered by a SEBB organization on December 31, 2019, who lose eligibility because the school employee is not eligible under WAC 182-31-040, may elect to enroll in one or more of the following SEBB benefits: Medical, dental, or vision coverage. These benefits will be provided for a maximum of eighteen months.

(2) Based on SEBB resolution 2018-56 a dependent of a SEBB eligible school employee who is enrolled in medical, dental, or vision under a school employee's account on December 31, 2019, who loses eligibility because they are not an eligible dependent under WAC 182-31-140 may enroll in medical, dental, and vision for a maximum of thirty-six months.

(3) Based on policy resolution SEBB resolution 2019-07 a dependent of a school employee who is continuing medical, dental, or vision coverage through a SEBB organization on December 31, 2019, may elect to finish out their remaining months, up to the maximum number of months authorized by Consolidated Omnibus Budget Reconciliation Act (COBRA) for a similar event, by enrolling in a medical, dental, or vision plan offered through the SEBB program.

(4) The school employee's or the dependent's election must be received by the SEBB program no later than sixty days after January 1, 2020. If the school employee's or a dependent's monthly premium or applicable premium surcharges remain unpaid for sixty days from the original due date, the school employee's SEBB benefits will be terminated retroactive to the last day of or the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-30-040 (1)(b).

NEW SECTION

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 SEBB benefits 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, vision, life insurance, and accidental death and dismemberment (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 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 months. The school employee's first premium payment and applicable premium surcharges are due no later than forty-five days after the election ends as described in (c) of this subsection. 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 benefits 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 days from the original due date, the school employee's SEBB benefits 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)(b).

(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 19-01-055, filed 12/14/18, effective 1/14/19)

WAC 182-31-110 What options are available if a school employee is approved for the federal Family and Medical Leave Act (FMLA) or the paid family and medical leave program? (1) A school employee on approved leave under the federal Family and Medical Leave Act (FMLA) or the family and medical leave insurance program under chapter 50A.04 RCW (paid family and medical leave program) may continue to receive the employer contribution toward school employees benefits board (SEBB) insurance coverage in accordance with the federal FMLA or RCW 50A.04.245. The school employee may also continue current supplemental life, supplemental accidental death and dismemberment (AD&D), and supplemental long-term disability insurance. The school employee's SEBB organization is responsible for determining if the school employee is eligible for leave under FMLA and the duration of such leave. The employment security department is responsible for determining if the

school employee is eligible for leave under the paid family and medical leave program.

(2) If a school employee's monthly premium or ~~((any))~~ applicable premium~~((s))~~ surcharges remain~~((s))~~ unpaid for sixty days from the original due date, the school employee's SEBB ~~((insurance coverage))~~ benefits will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges ~~((was))~~ were paid.

(3) If a school employee exhausts the period of leave approved under FMLA or paid family and medical leave, SEBB ~~((insurance coverage))~~ benefits may be continued by self-paying the premium and applicable premium surcharges set by the health care authority (HCA), with no contribution from the SEBB organization, as described in WAC 182-31-100(1).

NEW SECTION

WAC 182-31-120 What options for continuation coverage are available to school employees during their appeal of a grievance? (1) A school employee awaiting hearing of a grievance action before any of the following may continue their school employees benefits board (SEBB) insurance coverage by self-paying the premium and applicable premium surcharges set by the health care authority (HCA), with no contribution from the SEBB organization, on the same terms as a school employee who is granted leave as described in WAC 182-31-100(1):

(a) An arbitrator; or

(b) A grievance or appeals committee established under a collective bargaining agreement for union represented employees.

(2) The school employee must pay premium amounts and applicable premium surcharges associated with SEBB benefits as premiums and applicable premium surcharges become due. If the monthly premium or applicable premium surcharges remain unpaid for sixty days from the original due date, SEBB benefits 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)(b).

(3) If the dismissal is upheld, all SEBB benefits will end at the end of the month in which the decision is entered, or the date to which premiums have been paid, whichever is later, with the exception described in subsection (4) of this section.

(4) If the dismissal is upheld and the school employee is eligible under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), the school employee may continue medical, dental, vision, or any combination of them for the remaining months available under COBRA. See WAC 182-31-090 for information on COBRA. The number of months the school employee self-paid premiums during the appeal will count toward the total number of months allowed under COBRA.

(5) If the arbitrator, committee, or court sustains the school employee in the appeal and directs reinstatement of SEBB organization paid SEBB benefits retroactively, the SEBB organization must forward to HCA the full employer contribution for the period directed by the arbitrator, committee, or court and collect from the school employee the school employee's share of premiums due, if any.

(a) When the employer contribution is reinstated, HCA will refund premiums and applicable premium surcharges the school employee paid

only if the school employee retroactively pays their employee contribution amounts for SEBB benefits. In the alternative, at the request of the school employee, HCA may deduct the school employee's contribution amount for SEBB insurance coverage from the refund of premiums and applicable premium surcharges self-paid by the school employee during the appeal period.

(b) All supplemental life insurance, supplemental accidental death and dismemberment (AD&D) that was in force at the time of dismissal shall be reinstated retroactively only if the school employee makes retroactive payment of premium for any such supplemental coverage that was not continued by self-payment during the appeal process. If the school employee chooses not to pay the retroactive premium, evidence of insurability will be required to restore such supplemental coverage.

NEW SECTION

WAC 182-31-130 What options for continuation coverage are available to dependents who cease to meet the eligibility criteria as described in WAC 182-31-140 or 182-30-130? If eligible, dependents may continue SEBB benefits enrollment under one of the continuation coverage options in subsection (1) or (2) of this section by self-paying the premiums and applicable premium surcharges set by the health care authority (HCA), with no contribution from the school employees benefits board (SEBB) organization, following their loss of eligibility under the subscriber's SEBB benefits. The dependent's first premium payment and applicable premium surcharges are due to the HCA no later than forty-five days after the dependent's election is received by the SEBB program. Following the dependent's first premium payment, the dependent must pay premium and applicable premium surcharge amounts associated with SEBB benefits as premiums and applicable premium surcharges become due. If the monthly premium or applicable premium surcharges remain unpaid for sixty days from the original due date, SEBB benefits 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)(b). The SEBB program must receive the required forms as outlined in the SEBB initial notice of COBRA and continuation coverage rights. Options for continuing health plan enrollment are based on the reason that eligibility was lost.

(1) Dependents who lose eligibility due to the death of an employee may be eligible to continue health plan enrollment as described in WAC 182-12-180 or 182-12-265; or

(2) Dependents who lose eligibility because they no longer meet the eligibility criteria as described in WAC 182-31-140 are eligible to continue SEBB benefits enrollment under provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). See WAC 182-31-090 for more information on COBRA.

(3) No continuation coverage will be offered unless the SEBB program is notified through hand delivery or United States Postal Service mail of the qualifying event as outlined in the SEBB initial notice of COBRA and continuation coverage rights.

NEW SECTION

WAC 182-31-135 Where may school employee survivors go for additional coverage options? A school employee's spouse, state registered domestic partner, or child who loses eligibility for the employer contribution toward school employees benefits board (SEBB) insurance benefits due to the death of an eligible school employee may be eligible to enroll in or defer enrollment as a survivor under public employees benefits board (PEBB) retiree insurance coverage as described in WAC 182-12-265 rather than enrolling in continuation coverage.

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

WAC 182-31-140 Who are eligible dependents? To be enrolled in ~~((a health plan))~~ SEBB benefits, a dependent must be eligible under this section and the subscriber must comply with enrollment procedures outlined in WAC 182-31-150.

The school employees benefits board (SEBB) program ~~((will verify))~~ verifies the eligibility of all ~~((self-pay subscriber))~~ dependents and will request documents from subscribers that provide evidence of a dependent's eligibility. The SEBB program reserves the right to review a dependent's eligibility at any time. ~~((All SEBB organizations will verify the eligibility of all school employee dependents and will request documents that provide evidence of))~~ The SEBB program will remove a subscriber's enrolled dependents from health plan enrollment if the SEBB program is unable to verify a dependent's eligibility. The SEBB program and SEBB organizations will not enroll dependents into ~~((a health plan))~~ SEBB benefits if they are unable to verify a dependent's eligibility within the SEBB program enrollment timelines.

~~((A self-pay))~~ The subscriber must ((notify the SEBB program)) provide notice, in writing, when their dependent is not eligible under this section ~~((. A school employee must notify their SEBB organization, in writing, when their dependent is not eligible under this section. The notification must be received no later than sixty days after the date their dependent is no longer eligible under this section. See WAC 182-31-150(2) for the consequences of not removing an ineligible dependent from SEBB insurance coverage))~~ as described in WAC 182-31-150(2)(a). A school employee must notify their SEBB organization, except as required in subsection (3)(h)(ii) of this section. A subscriber on continuation coverage must notify the SEBB program. The notification must be received no later than sixty days after the date their dependent is no longer eligible under this section. See WAC 182-31-150(2) for the consequences of not removing an ineligible dependent from SEBB benefits.

The following are eligible as dependents:

(1) Legal spouse. A former spouse ~~((s are))~~ is not an eligible dependent ~~((s))~~ upon finalization of a divorce or annulment, even if a court order requires the subscriber to provide health insurance for the former spouse;

(2) State registered domestic partner. ~~((State registered domestic partner as defined in RCW 26.60.020(1) and substantially equivalent legal unions from other jurisdictions as defined in RCW~~

~~26.60.090.~~) A former state registered domestic partner~~((s-are))~~ is not an eligible dependent~~((s))~~ upon dissolution or termination of a partnership, even if a court order requires the subscriber to provide health insurance for the former partner;

(3) Children. Children are eligible through the last day of the month in which their twenty-sixth birthday occurred except as described in (f) of this subsection. Children are defined as the subscriber's:

(a) Children ~~((of the school subscriber))~~ based on establishment of a parent-child relationship as described in RCW ~~((26.26.101))~~ 26.26A.100, except when parental rights have been terminated;

(b) Children of the subscriber's spouse, based on the spouse's establishment of a parent-child relationship ~~((as described in RCW 26.26.101))~~, except when parental rights have been terminated. The stepchild's relationship to the subscriber (and eligibility as a dependent) ends on the same date the marriage with the spouse ends through divorce, annulment, dissolution, termination, or death;

(c) Children of the subscriber's state registered domestic partner, based on the state registered domestic partner's establishment of a parent-child relationship ~~((as described in RCW 26.26.101))~~, except when parental rights have been terminated. The child's relationship to the subscriber (and eligibility as a dependent) ends on the same date the subscriber's legal relationship with the state registered domestic partner ends through divorce, annulment, dissolution, termination, or death;

(d) Children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child;

(e) Children specified in a court order or divorce decree for whom the subscriber has a legal obligation to provide support or health care coverage;

(f) Children of any age with a developmental or physical disability that renders the child incapable of self-sustaining employment and chiefly dependent upon the subscriber for support and maintenance provided such condition~~((s))~~ occurs before the age of twenty-six:

(i) The subscriber must provide proof of the disability and dependency within sixty days of the child's attainment of age twenty-six;

(ii) The subscriber must ~~((agree to))~~ notify the SEBB program, in writing, no later than sixty days after the date that the child is no longer eligible under this subsection;

(iii) A child with a developmental or physical disability who becomes self-supporting is not eligible under this subsection as of the last day of the month in which they become capable of self-support;

(iv) A child with a developmental or physical disability age twenty-six and older who becomes capable of self-support does not regain eligibility if they later become incapable of self-support; and

(v) The SEBB program with input from the applicable contracted vendor will periodically verify the eligibility of a dependent child with a disability beginning at age twenty-six, but no more frequently than annually after the two-year period following the child's twenty-sixth birthday, which may require renewed proof from the subscriber.

(g) Extended dependent in the legal custody or legal guardianship of the subscriber, the subscriber's spouse, or the subscriber's state registered domestic partner. The legal responsibility is demonstrated by a valid court order and the child's official residence with the custodian or guardian. Extended dependent child does not include a

foster child unless the subscriber, the subscriber's spouse, or the subscriber's state registered domestic partner has assumed a legal obligation for total or partial support in anticipation of adoption.

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

WAC 182-31-150 When may subscribers enroll or remove eligible dependents? (1) **Enrolling dependents in school employees benefits board (SEBB) benefits.** A dependent must be enrolled in the same health plan coverage as the subscriber, and the subscriber must be enrolled in a medical plan to enroll their dependent. Subscribers must satisfy the enrollment requirements as described in subsection ~~((+5+))~~ (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 and the dependent is enrolled, the dependent's effective date will be the same as the subscriber's effective date, except if the subscriber enrolls a newborn child in supplemental dependent life insurance. The newborn child's dependent life insurance coverage or AD&D insurance will be effective on the date the child becomes fourteen days old;

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

(c) During special open enrollment. Subscribers may enroll dependents during a special open enrollment as described in subsections (3) and (5)(f) of this section.

(2) **Removing dependents from a subscriber's health plan coverage.**

(a) A dependent's eligibility for enrollment in health plan coverage ends the last day of the month the dependent ~~((fails to))~~ meets the eligibility criteria as described in WAC 182-31-140. Subscribers must ~~((notify their SEBB organization))~~ 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). School employees must notify their SEBB organization when a dependent is no longer eligible 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 sixty days of the last day of the month the dependent loses eligibility for health plan coverage may include, but are not limited to:

(i) The dependent may lose eligibility to continue health plan coverage under one of the continuation coverage options;

(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 ~~((SEBB organization))~~ 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 the last day of December; or

(ii) During a special open enrollment as described in subsections (3) and (5)(f) of this section.

(c) Enrollees with SEBB continuation coverage as described in WAC 182-31-090 may remove dependents from their SEBB (~~(insurance coverage)~~) benefits 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 (~~(insurance coverage)~~) benefits prospectively. SEBB (~~(insurance coverage)~~) benefits 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, coverage will end on the last day of the previous month.

(3) Special open enrollment.

(a) Subscribers may enroll or remove their eligible dependents (~~(or remove them)~~) 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) (~~(Health plan)~~) SEBB benefits 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) Enrollment of an extended dependent or a dependent with a disability will be the first day of the month following the later of the event date as described in WAC 182-31-140(3) or eligibility certification.

(iii) The dependent will be removed from the subscriber's (~~(health plan)~~) SEBB benefits 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, (~~(health plan)~~) SEBB benefits coverage will begin or end as follows:

- For the newly born child, (~~(health plan)~~) SEBB benefits coverage will begin the date of birth;

- For a newly adopted child (~~(health plan)~~) SEBB benefits 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, 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 health plan coverage the last day of the month in which the event occurred;

A newly born child must be at least fourteen days old before supplemental dependent life insurance coverage or accidental death and dismemberment insurance purchased by the employee becomes effective.

Any one of the following events may create a special open enrollment:

(b) Subscriber acquires a new dependent due to:

(i) Marriage or registering a state registered domestic partnership (~~on a state registry when the dependent is a tax dependent of the subscriber~~);

(ii) Birth, adoption, or when a 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.

(c) 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);

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

(e) The subscriber's dependent has a change in their own employment status that affects their 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 54.9801-6.

(f) 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;

(g) 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;

(h) 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);

(i) Subscriber or a subscriber's dependent becomes entitled to 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;

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

~~(4) ((For the purposes of special open enrollment "employer contribution" means contributions made by the dependent's current or former employer toward health coverage as described in Treasury Regulation 54.9801-6.~~

~~(5))~~ **Enrollment requirements. A subscriber must submit the required forms within the time frames described in this subsection.** A school employee must submit the required forms to their SEBB organization, ~~((all other))~~ a subscriber ~~((s))~~ on continuation 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 ~~((relevant))~~ required time frames.

(a) If a subscriber wants to enroll their eligible dependents 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 ((relevant)) required time frame as described in WAC 182-30-060 and 182-30-080.

(b) If a subscriber wants to enroll eligible dependents 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 sixty days after the dependent becomes eligible ((~~except as provided in (d) of this subsection~~)).

(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, 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 sixty 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.

(e) If the subscriber wants to enroll a child age twenty-six or older as a child with a disability, the required forms must be received no later than sixty days after the last day of the month in which the child reaches age twenty-six or within the relevant time frame described in WAC 182-31-140 (3)(f). 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 coverage termination date.

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

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

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:

((1)) (a) The subscriber may enroll their dependent child and request changes to their health plan coverage as described under ((~~subsection (3)~~)) (c) of this ((~~section~~)) 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;

((2)) (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 ((~~subsection (3)~~)) (c) of this ((~~section~~)) subsection upon request of:

((a)) (i) The child's other parent; or

((b)) (ii) Child support enforcement program.

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

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

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

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

~~((d))~~ (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; or

~~((e))~~ (v) 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.

~~((4))~~ (d) Changes to health plan coverage or enrollment as described in ~~((subsection (3)(a) through))~~ (c)(i) through (iii) of this ~~((section))~~ subsection will begin the first day of the month following receipt by the SEBB organization 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 ~~((subsection (3)(d)))~~ (c)(iv) of this ~~((section))~~ 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.

~~((5))~~ ~~The subscriber may be eligible to make changes to their health plan enrollment and salary reduction elections related to the NMSN as described in WAC 182-30-090 (1) and (2) or 182-31-150(3).)~~ (2) When a NMSN requires a spouse, former spouse, or other individual to provide coverage for a dependent enrolled in SEBB coverage and that coverage is in fact provided, the dependent may be removed from the subscriber's SEBB insurance coverage prospectively.

NEW SECTION

WAC 182-31-190 School employees benefits board (SEBB) wellness incentive program eligibility and procedural requirements. The school employees benefits board (SEBB) annually determines the design of the SEBB wellness incentive program.

(1) All subscribers are eligible to participate in the SEBB wellness incentive program.

(2) For plan year 2020, all subscribers that register in SmartHealth and complete the well-being assessment during the 2019 open enrollment will earn a \$50 incentive as a reduction in their SEBB medical deductible or a deposit into their SEBB health savings account (HSA).

(3) Effective January 1, 2020, to receive the SEBB wellness incentive of a reduction to the subscriber's medical plan deductible or a deposit to the subscriber's health savings account for the following plan year, subscribers must complete SEBB wellness incentive program requirements during the current plan year by the following deadline:

(a) For subscribers continuing enrollment in SEBB medical and subscribers enrolling in SEBB medical with an effective date in January through September, the deadline is November 30th; or

(b) For subscribers enrolling in SEBB medical with an effective date in October through December, the deadline is December 31st.

(4) Subscribers who do not complete the requirements according to subsection (3) of this section within the time frame described are not eligible to receive a SEBB wellness incentive the following plan year.

Note: All subscribers can earn a wellness incentive. Subscribers who cannot complete the wellness incentive program requirements may be able to earn the same incentive by different means. The SEBB program will work with enrollees (and their physician, if they wish) to define an individual wellness program that provides the opportunity to qualify for the same incentive in light of the enrollee's health status.

(5) A SEBB wellness incentive will be provided only if:

(a) For the wellness incentive described in subsection (3) of this section the subscriber is still eligible for the SEBB wellness incentive program in the year the incentive applies;

(b) The funding rate provided by the legislature is designed to provide a SEBB wellness incentive program or a SEBB wellness incentive, or both; or

(c) Specific appropriations are provided for wellness incentives.

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 organizations, 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 ~~((review by))~~ brief adjudicative proceeding with the SEBB appeals unit ~~((or a formal administrative hearing))~~ about the action of the SEBB organization, the HCA, or its contracted vendor.

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

"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 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, ~~((either))~~ a school employees benefits board (SEBB) organization, 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.

"Disability insurance" includes any basic long-term disability insurance paid for by the school employees benefits board (SEBB) organization and any supplemental long-term disability or supplemental short-term disability paid for by the employee.

"Dispositive motion" is a motion made to a presiding officer, review 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. ~~((Documents in-~~

~~clude evidence needed to verify eligibility for SEBB benefits and complete the enrollment process.~~

~~"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 182-31-060.~~

~~"Employer-paid coverage" means SEBB insurance coverage for which an employer contribution is made by a SEBB organization for school employees eligible in WAC 182-31-060.)~~

"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 governmental-sponsored programs such as medicare or medicaid.

"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, review officer, or hearing officer. A document is considered filed when it is received by the health care authority or its designee.

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

"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 ~~((34.05.479))~~ 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 ~~((school employees benefits board))~~ SEBB 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" ~~((for eligible school employees includes))~~ means any basic life insurance ~~((and accidental death and dismemberment (AD&D) insurance))~~ paid for by the ~~((school employees benefits board (+))~~ SEBB ~~((+))~~ organization, as well as supplemental life insurance ~~((and supplemental AD&D insurance))~~ offered to and paid for by school employees for themselves and their dependents.

"LTD insurance" or "long-term disability insurance" includes ~~((any))~~ basic long-term disability insurance paid for by the ~~((school employees benefits board (-))~~ SEBB ~~((+))~~ organization and ~~((any))~~ supplemental long-term disability insurance offered to and paid for by the school employee.

"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 ~~((this))~~

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

"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 ninety-five 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 ninety-five 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.

"Public employees benefits board" or "PEBB" means the board established under provisions of RCW 41.05.055.

"Review 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 (DCAP), medical flexible spending arrangement (FSA), or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the Internal Revenue Code.

"School employee" means:

- All employees of school districts (~~(, educational service 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.

"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 established in RCW 41.05.740.

"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, 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 descri-

bed in WAC 182-31-040 or 182-30-130), and eligible dependents (as described in WAC 182-31-140).

"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 who has been determined eligible by the SEBB program or SEBB organizations, 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.

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

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

(2) A presiding officer, review officer or officers, or hearing officer must first apply the applicable ((school employees benefits board (-))SEBB((+)) program rules adopted in the ((Washington Administrative Code (-))WAC((+))). If no SEBB program rule applies, the presiding officer, review 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 19-01-055, filed 12/14/18, effective 1/14/19)

WAC 182-32-066 Burden of proof, standard of proof, and presumptions. (1) The burden of proof is a party's responsibility to provide evidence regarding disputed facts and persuade the presiding officer, review officer or officers, or hearing officer that a position is correct based on the standard of proof. Unless stated otherwise in rules or law, the appellant has the burden of proof in a brief adjudicative proceeding or formal administrative hearing.

(2) Standard of proof refers to the ((amount of evidence needed)) degree or level of proof to prove a party's position. Unless stated otherwise in rules or law, the standard of proof in a brief adjudicative proceeding or formal administrative hearing is a preponderance of

the evidence, meaning that something is more likely to be true than not.

(3) Public officers and school employees benefits board (SEBB) organizations are presumed to have properly performed their duties and acted as described in the law, unless substantial evidence to the contrary is presented. A party challenging this presumption bears the burden of proof.

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

WAC 182-32-120 Computation of time. (1) In computing any period of time prescribed by this chapter, the day of the event from which the time begins to run is not included. (For example, if an initial order is served on Friday and the party has twenty-one days to request a review, start counting the days with Saturday.)

(2) (~~Except~~) As provided in subsection (3) of this section, the last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, in which case the period extends to the end of the next business day.

(3) When the period of time prescribed or allowed is (~~less than~~) ten days or less, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(4) The deadline is 5:00 p.m. on the last day of the computed period.

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

WAC 182-32-130 Index of significant decisions. (1) A final decision may be relied upon, used, or cited as precedent by a party only if the final order has been indexed in the authority's index of significant decisions in accordance with RCW 34.05.473 (1)(b).

(2) An index of significant decisions is available to the public on the health care authority's (HCA) web site. As decisions are indexed they will be available on the web site.

(3) A final decision published in the index of significant decisions may be removed from the index when:

(a) A published decision entered by the court of appeals or the supreme court reverses an indexed final decision; or

(b) HCA determines that the indexed final decision is no longer precedential due to changes in statute, rule, or policy.

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

WAC 182-32-2000 Brief adjudicative proceedings. Pursuant to RCW 34.05.482, the authority will use brief adjudicative proceedings for

issues identified in this chapter when doing so would not violate law, or when protection of the public interest does not require the authority to give notice and an opportunity to participate to persons other than the parties, or the issue and interests involved in the controversy do not warrant use of the procedures of RCW 34.05.413 through ((34.05.479)) 34.05.476 which govern formal administrative hearings.

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

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 ((school employees benefits board (SEBB))) 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 ((outlined)) described in WAC 182-32-2020.

Note: Eligibility decisions address whether a subscriber or a subscriber's dependent is entitled to SEBB ((insurance coverage)) 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 subscriber or dependent aggrieved by a decision made by the SEBB program with regard to SEBB eligibility, enrollment, premium payments, or 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) Any enrollee aggrieved by a decision regarding the administration of a health plan, life insurance, accidental death and dismemberment (AD&D) insurance, or disability insurance, ((or property and casualty 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) 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) 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) 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.

WAC 182-32-2020 Appealing a decision made by a school employees benefits board (SEBB) organization about eligibility, premium surcharges, or enrollment in benefits. (1) An eligibility, premium surcharges, or enrollment decision made by a school employees benefits board (SEBB) organization may be appealed by submitting a written request for administrative review to the SEBB organization. The SEBB organization must receive the request for administrative review no later than thirty days after the date of the denial notice. The contents of the request for administrative review are to be provided as described in WAC 182-32-2070.

(a) Upon receiving the request for administrative review, the SEBB organization (~~shall~~) 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 (~~shall~~) must render a written decision within thirty days of receiving the written request for administrative review. The written decision (~~shall~~) must be sent to the school employee or school employee's dependent who submitted the request for administrative review and must include a description of the appeal rights. The SEBB organization (~~shall~~) 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 thirty days of receiving the written request for administrative review, the request for administrative review may be considered denied as of the thirtieth day and the original underlying SEBB organization decision may be appealed to the SEBB appeals unit by following the process in this section.

(c) The SEBB organization may reverse eligibility, premium surcharges, or enrollment decisions (~~based only on circumstances that arose due to delays caused by the SEBB organization or errors made by the SEBB organization~~) as permitted by WAC 182-30-060.

(2) Any current or former school employee or school employee's dependent who disagrees with the SEBB organization's decision in response to a request for administrative review, as described in subsection (1) of this section, may request a brief adjudicative proceeding to be conducted by the authority by submitting a request to the SEBB appeals unit.

(a) The SEBB appeals unit must receive the request for a brief adjudicative proceeding no later than thirty days after the date of the SEBB organization's written decision on the request for administrative review. 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 (~~shall~~) 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 requested documentation and information. The SEBB organization will also send a copy of the documentation and in-

formation to the (~~employee, former employee, or the employee's dependent~~) appellant.

(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 to appeal the SEBB organization's written decision within thirty days by following the process in subsection (2) of this section, the SEBB organization's prior written decision becomes the (~~health care~~) authority's final decision without further action.

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

WAC 182-32-2030 Appealing a school employees benefits board (SEBB) program decision regarding eligibility, enrollment, premium payments, ((and)) premium surcharges, and a SEBB wellness incentive.

(1) A decision made by the school employees benefits board (SEBB) program regarding eligibility, enrollment, premium payments, (~~or~~) 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) The contents of the request for a brief adjudicative proceeding are to be provided as described in WAC 182-32-2070.

(3) 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 days after the date of the denial notice.

(4) The request for a brief adjudicative proceeding from a self-pay enrollee or dependent of self-pay enrollee must be received by the SEBB appeals unit no later than sixty days after the date of the denial notice.

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

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

(7) Failing to timely request a brief adjudicative proceeding to appeal a decision made under this section within applicable time frames described in subsections (3) and (4) of this section, will result in the prior decision becoming the authority's final decision without further action.

NEW SECTION

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 employee must be received by the SEBB appeals unit no later than thirty 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 must be received by the SEBB appeals unit no later than sixty 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 shall 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 of a decision made under subsection (1) of this section within thirty days by following the process in WAC 182-32-2020(2), the decision of the SEBB wellness incentive program contracted vendor becomes the authority's final decision.

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

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 thirty 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 shall 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 shall render a written decision within thirty days of receiving the written request for administrative review. The written decision shall be sent to the school employee who submitted the written request for review and must include a description of appeal rights. The SEBB organization shall 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 thirty days of receiving the written request for administrative review, the request for administrative review may be considered denied as of the thirtieth day and the original underlying SEBB organization decision may be ap-

pealed 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 thirty days after the date of the SEBB organization's written decision on the request for administrative review. 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 shall 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 to appeal a decision made under this section within thirty days by following the process described in this subsection, the SEBB organization's prior written decision becomes the authority's final decision without further action (~~by the authority~~).

(3) Any school employee aggrieved by a decision regarding a claim for benefits under the medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) offered under the salary reduction plan may appeal that decision to the HCA 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 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 thirty 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 shall 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 to appeal a decision made under this section within thirty days by following the process described in this subsection, the contracted vendor's prior written decision becomes the health care authority (HCA) final decision.

(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 conduc-

ted by the HCA 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 thirty 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 shall 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 to appeal a decision made under this section within thirty days by following the process described in this subsection, the SEBB program's written decision becomes the authority's final decision.

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

WAC 182-32-2080 Who can appeal or represent a party in a brief adjudicative proceeding? (1) The appellant may act as their own representative or may choose to be represented by another person, except that employees of the health care authority (HCA) or HCA's authorized agents may not represent an appellant, unless approved by a presiding officer or review officer.

(2) If the appellant is represented by a person who is not an attorney admitted to practice in Washington state, the representative must provide the presiding officer and other parties with the representative's name, address, and telephone number. In cases involving confidential information, the nonattorney representative must provide the school employees benefits board (SEBB) appeals unit and other parties with a signed, written consent permitting release to the nonattorney representative of the appellant's (~~personal~~) health information protected by state or federal law.

(3) An attorney admitted to practice law in Washington state representing the appellant must file a written notice of appearance containing the attorney's name, address, and telephone number with the presiding officer's office and serve all parties with the notice. In cases involving confidential information, the attorney must provide the SEBB appeals unit and other parties with a signed, written consent permitting release to the attorney of the appellant's (~~personal~~) health information protected by state or federal law. If the appellant's attorney representative no longer represents the appellant, then the attorney must file a written notice of withdrawal of representation with the presiding officer or review officer or officer's office and serve all parties with the notice.

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

WAC 182-32-2085 Continuances. The presiding officer, review officer or officers may grant in their sole discretion, a request for a continuance on motion of the appellant, the authority, or on ~~((its))~~ their own motion. The continuance may be up to thirty calendar days.

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

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

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

(3) If the appellant ~~((have))~~ has not requested review, the authority may review an order resulting from a brief adjudicative proceeding on its own motion, 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.

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

WAC 182-32-2105 Withdrawing the request for a brief adjudicative proceeding or review of an initial order. (1) The appellant may withdraw the request for a brief adjudicative proceeding or review of an initial order for any reason, and at any time, by contacting the school employees benefits board (SEBB) appeals unit. The SEBB appeals unit will present the withdrawal request to the presiding officer or review officer or officers.

(2) The request for withdrawal must be made in writing.

(3) After a withdrawal request is received, the presiding officer or review officer or officers must enter and serve a written order dismissing the ~~((appeal))~~ brief adjudicative proceeding or review of an initial order.

(4) If an appellant withdraws a request for a brief adjudicative proceeding or review of an initial order, the appellant may not reinstate the request for a brief adjudicative proceeding or review of an initial order unless time remains on their original appeal period.

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

WAC 182-32-2120 Request for reconsideration. (1) A request for reconsideration asks the review officer or officers to reconsider the final order because the party believes the review officer or officers made a mistake of law, mistake of fact, or clerical error.

(2) A request for reconsideration must state in writing why the party wants the final order to be reconsidered.

(3) Requests for reconsideration must be filed with the review officer or officers who entered the final order.

(4) If a party files a request for reconsideration:

(a) The review officer or officers must receive the request for reconsideration on or before the tenth business day after the service date of the final order;

(b) The party filing the request must send copies of the request to all other parties; and

(c) Within five business days of receiving a request for reconsideration, the review officer or officers must serve to all parties a notice that provides the date the request for reconsideration was received.

(5) The other parties may respond to the request for reconsideration. The response must state in writing why the final order should stand. Responses are optional. If a party chooses not to respond, that party will not be prejudiced because of that choice.

(a) Responses to a request for reconsideration must be received by the review officer or officers no later than seven business days after the service date of the review officer or officers' notice as described in subsection (4)(c) of this section, or the response will not be considered.

(b) Service of responses to a request for reconsideration must be made to all parties.

(6) If a party needs more time to file a request for reconsideration or respond to a request for reconsideration, the review officer or officers may extend the required time frame if the party makes a written request providing a good reason for the request within the required time frame.

(7) Unless the request for reconsideration is denied as untimely filed under subsection (4)(a) of this section, the same review officer or officers who entered the final order, if reasonably available, will also consider the request as well as any responses received.

(8) The decision on the request for reconsideration must be in the form of a written order denying the request, granting the request in whole or in part and issuing a new written final order, or granting the petition and setting the matter for further hearing.

(9) If the review officer or officers do not send an order on the request for reconsideration within twenty calendar days of the date of the notice described in subsection (4)(c) of this section, the request is deemed denied.

(10) If any party files a request for reconsideration of the final order, the reconsideration process must be completed before any judicial review may be requested. However, the filing of a petition for reconsideration is not required before requesting judicial review.

(11) An order denying a request for reconsideration is not subject to judicial review.

(12) No evidence may be offered in support of a motion for reconsideration, except newly discovered evidence that is material for the party moving for reconsideration and that the party could not with reasonable diligence have discovered and produced (~~at the hearing or before the ruling on a dispositive motion~~) prior to the final order being issued.

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

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 (~~34.05.546.~~) 34.05.510 through 34.05.598. Neither the school employees benefits board (SEBB) program nor a SEBB organization may (~~not~~) request judicial review.

(~~3~~) ~~The appellant should consult RCW 34.05.510 through 34.05.598 for further details and requirements of the judicial review process.~~)

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

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

(2) The review officer or officers shall review the initial order and the record to determine if the initial order was correctly decided.

(3) The review 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) Refer the matter for a formal administrative hearing; or
- (d) Remand to the presiding officer in whole or in part.

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

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

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

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

WAC 182-32-2160 Conversion of a brief adjudicative proceeding to a formal administrative hearing. (1) The presiding officer or the review officer or officers, in their sole discretion, may convert a brief adjudicative proceeding to a formal administrative hearing at any time on motion by the subscriber or enrollee or their representative, the authority, or on the presiding officer or review officer or officers' own motion.

(2) The presiding or review officer or officers must convert the brief adjudicative proceeding to a formal administrative hearing when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the authority to give notice and an opportunity to participate to persons other than the parties, or when the issues and interests involved in the controversy warrant the use of the procedures ~~((of))~~ of RCW 34.05.413 through ~~((34.05.479))~~ 34.05.476 that govern formal administrative hearings.

(3) When a brief adjudicative proceeding is converted to a formal administrative hearing, the director ~~((may become the hearing officer or may))~~ designates a ~~((replacement))~~ hearing officer to conduct the formal administrative hearing upon notice to the subscriber or enrollee and the authority.

(4) When a brief adjudicative proceeding is converted to a formal administrative hearing, WAC 182-32-010 through 182-32-130 and WAC 182-32-3000 through 182-32-3200 apply to the formal administrative hearing.

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

WAC 182-32-3000 Formal administrative hearings. (1) When a brief adjudicative proceeding is converted to a formal administrative hearing consistent with WAC ~~((182-32-3160))~~ 182-32-2160, the director designates a hearing officer to conduct the formal administrative hearing.

(2) Formal administrative hearings are conducted consistent with the Administrative Procedure Act, RCW 34.05.413 through ~~((34.05.479))~~ 34-05-476.

(3) Part III describes the general rules and procedures that apply to school employees benefits board (SEBB) benefits formal administrative hearings.

(a) This Part III supplements the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules of procedure in chapter 10-08 WAC. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amen-

ded, are hereby adopted for use by the authority in school employees benefits board (SEBB) benefits formal administrative hearings. Other procedural rules adopted in chapters 182-30, 182-31, and 182-32 WAC are supplementary to the model rules of procedure.

(b) In the case of a conflict between the model rules of procedure and this Part III, the procedural rules adopted in this Part III shall govern.

(c) If there is a conflict between this Part III and specific SEBB program rules, the specific SEBB program rules prevail. SEBB program rules are found in chapters 182-30 and 182-31 WAC.

(d) Nothing in this Part III is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if a hearing right exists, including the APA and program rules or laws.

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

WAC 182-32-3010 Requirements to appear and represent a party in the formal administrative hearing process. (1) All parties must provide the hearing officer and all other parties with their name, address, and telephone number.

(2) The appellant may act as their own representative or have another person represent them, except that employees of the health care authority (HCA) or HCA's authorized agents may not represent an appellant, unless approved by a hearing officer.

(3) If the appellant is represented by a person who is not an attorney admitted to practice in Washington state, the representative must provide the hearing officer and all other parties with the representative's name, address, and telephone number. In cases involving confidential information, the nonattorney representative must provide the HCA hearing representative with a signed, written consent permitting release to the nonattorney representative of (~~personal~~) health information protected by state or federal law.

(4) An attorney admitted to practice law in Washington state, who wishes to represent the appellant, must file a written notice of appearance containing the attorney's name, address, and telephone number with the hearing officer's office and serve all parties with the notice. In cases involving confidential information, the attorney representative must provide the HCA hearing representative with a signed, written consent permitting release to the attorney representative of the appellant's (~~personal~~) health information protected by state or federal law. If the appellant's attorney representative no longer represents the appellant, then the attorney must file a written notice of withdrawal of representation with the hearing officer's office and serve all parties with the notice.

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

WAC 182-32-3030 Authority of the hearing officer. (1) A hearing officer must hear and decide the issues (~~(de novo)~~ ~~(anew)~~) based on the evidence and oral or written arguments presented during a formal administrative hearing and admitted into the record.

(2) A hearing officer has no inherent or common law powers, and is limited to those powers granted by the state constitution, statutes, or rules.

(3) A hearing officer may not decide that a rule is invalid or unenforceable. If the validity of a rule is raised during a formal administrative hearing, the hearing officer may allow argument only to preserve the record for judicial review.

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

WAC 182-32-3080 Time requirements for service of notices made by the hearing officer. (1) The hearing officer or their designee must serve a notice of a formal administrative hearing to all parties and their representatives at least twenty-one calendar days before the hearing date. The parties may agree to, but the hearing officer cannot impose, a shorter notice period.

(2) If a prehearing conference or dispositive motion hearing is scheduled, the hearing officer must serve a notice of the prehearing conference or dispositive motion hearing to the parties and their representatives at least seven business days before the date of the prehearing conference or dispositive motion hearing except:

(a) The hearing officer may change any scheduled formal administrative hearing into a prehearing conference or dispositive motion hearing and provide less than seven business days' notice of the prehearing conference or dispositive motion hearing; and

(b) The hearing officer may give less than seven business days' notice if the only purpose of the prehearing conference is to consider whether to grant a continuance.

(3) The hearing officer must reschedule a formal administrative hearing if necessary to comply with the notice requirements in Part III of this chapter.

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

WAC 182-32-3100 Rescheduling and continuances for formal administrative hearings. (1) Any party may request the hearing officer to reschedule a formal administrative hearing if a rule requires notice of a hearing and the amount of notice required was not provided.

(a) The hearing officer must reschedule the formal administrative hearing under circumstances identified in this (~~(subsection)~~) chapter if requested by any party.

(b) The parties may agree to shorten the amount of notice required by any rule.

(2) Any party may request a continuance of a formal administrative hearing either orally or in writing.

(a) In each formal administrative hearing, the hearing officer must grant each party's first request for a continuance. The continuance may be up to thirty calendar days.

(b) The hearing officer may grant each party up to one additional continuance of up to thirty calendar days because of extraordinary circumstances (~~(established at a proceeding)~~).

(c) After granting a continuance, the hearing officer or their designee must:

(i) Immediately telephone all other parties to inform them the hearing was continued; and

(ii) Serve an order of continuance on the parties no later than fourteen days before the new hearing date. All orders of continuance must provide a new deadline for filing documents with the hearing officer. The new filing deadline can be no less than ten calendar days prior to the new formal administrative hearing date. If the continuance is granted pursuant to (b) of this subsection, then the order of continuance must also include findings of fact that state with specificity the extraordinary circumstances for which the hearing officer granted the continuance.

(3) Regardless of whether a party has been granted a continuance as described in subsection ~~((1))~~ (2)(b) of this section, the hearing officer must grant a continuance if a new material issue is raised during the formal administrative hearing and a party requests a continuance.

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

WAC 182-32-3120 Dispositive motions. (1) A dispositive motion could dispose of one or all the issues in a formal administrative hearing, such as a motion to dismiss or motion for summary judgment.

(2) To request a dispositive motion hearing a party must file a written dispositive motion with the hearing officer and serve a copy of the motion to all other parties. The hearing officer may also set a dispositive motion hearing, and request briefing from the parties, to address any possible dispositive issues the hearing officer believes must be addressed before the hearing.

(3) The deadline to file a timely dispositive motion shall be ten calendar days before the scheduled hearing.

(4) Upon receiving a dispositive motion, a hearing officer:

(a) Must convert the scheduled hearing to a dispositive motion hearing when:

(i) The dispositive motion is timely filed with the hearing officer at least ten calendar days before the date of the hearing; and

(ii) The party filing the dispositive motion has not previously filed a dispositive motion.

(b) May schedule a dispositive motion hearing in all instances other than described in (a) of this subsection.

(5) The hearing officer may conduct the dispositive motion hearing in person or by telephone conference. For dispositive motion hear-

ings scheduled to be held in person, the health care authority (HCA) hearing representative may choose to attend and participate in person or by telephone conference call.

(6) The party requesting the dispositive motion hearing must attend and participate in the dispositive motion hearing in person or by telephone. If the party requesting the motion hearing does not attend and participate in the dispositive motion hearing, the hearing officer will enter an order (~~of default~~) dismissing the dispositive motion.

(7) During a dispositive motion hearing, the hearing officer can only consider the filed dispositive motions, any response to the motions, evidence submitted to support or oppose the motions, and argument on the motions. Prior to rescheduling any necessary hearings, the hearing officer must serve a written order on the dispositive motions.

(8) The hearing officer must serve the written order on the dispositive motions to all parties no later than eighteen calendar days after the dispositive motion hearing is held. Orders on dispositive motions are subject to motions for reconsideration or petitions for judicial review as described in WAC 182-32-2120 and 182-32-2130.

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

WAC 182-32-3130 Subpoenas. (1) Hearing officers, the health care authority (HCA) hearing representative, and attorneys for the parties may prepare subpoenas as described in Washington state civil rule 45, unless otherwise prohibited by law. Any party may request the hearing officer prepare a subpoena on their behalf.

(2) The hearing officer may schedule a prehearing conference to decide whether to issue a subpoena.

(3) If a party requests the hearing officer prepare a subpoena on its behalf, the party is responsible for:

- (a) Service of the subpoena; and
- (b) Any costs associated with:
 - (i) Compliance with the subpoena; and
 - (ii) Witness fees as described in RCW 34.05.446(7).

(4) Service of a subpoena must be made by a person who is at least eighteen years old and not a party to the hearing. Service of the subpoena is complete when the person serving the subpoena:

- (a) Gives the person or entity named in the subpoena a copy of the subpoena; or
- (b) Leaves a copy of the subpoena with a person over the age of eighteen at the residence or place of business of the person or entity named in the subpoena.

(5) To prove service of a subpoena on a witness, the person serving the subpoena must file with the hearing officer's office a signed, written, and dated statement that includes:

- (a) The name of the person to whom service of the subpoena occurred;
- (b) The date of the service of the subpoena occurred;
- (c) The address where the service of the subpoena occurred; and
- (d) The name, age, and address of the person who provided service of the subpoena.

(6) A (~~party~~) person or entity subject to or affected by the subpoena may request the hearing officer quash (set aside) or change a

subpoena request at any time before the deadline given in the subpoena.

(7) A hearing officer may quash (set aside) or change a subpoena if it is unreasonable.

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

WAC 182-32-3140 Orders of dismissal—Reinstating a formal administrative hearing after an order of dismissal. (1) An order of dismissal is an order from the hearing officer ending the matter. The order is entered because the party who made the appeal withdrew from the proceeding, the appellant is no longer aggrieved, the hearing officer granted a dispositive motion dismissing the matter, or the hearing officer entered an order of default because the party who made the appeal failed to attend or refused to participate in a prehearing conference or the formal administrative hearing.

(2) The order of dismissal becomes a final order if no party files a request to vacate the order as described in subsections (3) through (7) of this section.

(3) If the hearing officer enters and serves an order dismissing the formal administrative hearing, the appellant may file a written request to vacate (set aside) the order of dismissal. Upon receipt of a request to vacate an order of dismissal, the hearing officer must schedule and serve notice of a prehearing conference as described in WAC 182-32-3080. At the prehearing conference, the party asking that the order of dismissal be vacated has the burden to show good cause according to subsection (8) of this section for an order of dismissal to be vacated and the matter to be reinstated.

(4) The request to vacate an order of dismissal must be filed with the hearing officer and the other parties. The party requesting that an order of dismissal be vacated should specify in the request why the order of dismissal should be vacated.

(5) The request to vacate an order of dismissal must be filed with the hearing officer no later than twenty-one calendar days after the date the order of dismissal was entered. If no request is received within that deadline, the dismissal order becomes ~~((a final order and the final order will stand))~~ the health care authority's final decision without further action.

(6) ~~((If))~~ The hearing officer ((finds)) will consider if there is good cause, as described in subsection (8) of this section, for the order of dismissal to be vacated((τ)). ~~The hearing officer must enter and serve a written order ((to the parties)) setting forth the findings of fact((τ)) and conclusions of law((τ, and reinstatement of))~~ supporting the decision of whether to reinstate the matter.

(7) If the order of dismissal is vacated, the hearing officer will conduct a formal administrative hearing at which the parties may present argument and evidence about issues raised in the original appeal. The formal administrative hearing may occur immediately following the prehearing conference on the request to vacate only if agreed to by the parties and the hearing officer, otherwise a formal administrative hearing date must be scheduled by the hearing officer.

(8) Good cause is a substantial reason or legal justification for failing to appear, act, or respond to an action using the provisions of superior court civil rule 60 as a guideline. This good cause exception applies only to this chapter. This good cause exception does not apply to any other chapter or chapters in Title 182 WAC.

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

WAC 182-32-3180 Request for reconsideration and response—Process. (1) A request for reconsideration asks the hearing officer to reconsider the final order because the party believes the hearing officer made a mistake of law, mistake of fact, or clerical error.

(2) A request for reconsideration must state in writing why the party wants the final order to be reconsidered.

(3) Requests for reconsideration must be filed with the hearing officer who entered the final order.

(4) If a party files a request for reconsideration:

(a) The hearing officer must receive the request for reconsideration on or before the tenth business day after the service date of the final order;

(b) The party filing the request must serve copies of the request on ~~((to))~~ all other parties on the same day the request is served on the hearing officer; and

(c) Within five business days of receiving a request for reconsideration, the hearing officer must serve to all parties a notice that provides the date the request for reconsideration was received.

(5) The other parties may respond to the request for reconsideration. The response must state in writing why the final order should stand. Responses are optional. If a party chooses not to respond, that party will not be prejudiced because of that choice.

(a) Responses to a request for reconsideration must be received by the hearing officer no later than seven business days after the service date of the hearing officer's notice as described in subsection (4)(c) of this section, or the response will not be considered.

(b) Service of responses to a request for reconsideration must be made to all parties.

(6) If a party needs more time to file a request for reconsideration or respond to a request for reconsideration, the hearing officer may extend the required time frame if the party makes a written request providing a good reason for the request within the required time frame.

(7) No evidence may be offered in support of a motion for reconsideration, except newly discovered evidence that is material for the party moving for reconsideration and that the party could not ~~((with reasonable diligence))~~ have reasonably discovered and produced at the hearing or before the ruling on a dispositive motion.

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

WAC 182-32-3190 Decisions on requests for reconsideration. (1)

Unless the request for reconsideration is denied as untimely filed under WAC 182-32-3180, the same hearing officer who entered the final order, if reasonably available, will also dispose of the request as well as any responses received.

(2) The decision on the request for reconsideration must be in the form of a written order denying or granting the request in whole or in part and if the request is granted issuing a new written final order.

(3) If the hearing officer does not send an order on the request for reconsideration within twenty calendar days of the date of the notice described in WAC (~~(182-32-2120)~~) 182-32-3180 (4)(c), the request is deemed denied.

(4) If any party files a request for reconsideration of the final order, the reconsideration process must be completed before any judicial review may be requested. However, the filing of a request for reconsideration is not required before requesting judicial review.

(5) An order denying a request for reconsideration is not subject to judicial review.

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

WAC 182-32-3200 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 (~~(34.05.546)~~) 34.05.510 through 34.05.598. The school employees benefits board (SEBB) program may not request judicial review.

(3) The appellant should consult RCW 34.05.510 through 34.05.598 for further details and requirements of the judicial review process.