



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 16, 2020

TIME: 8:07 AM

WSR 20-13-072

Agency: Health Care Authority, School Employees Benefits Board (SEBB) Admin # 2020-01

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-09-122 ; 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)

WAC 182-31-040 How do school employees establish eligibility for the employer contribution toward SEBB benefits and when do SEBB benefits coverage begin?

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|---------------|----------|--|---|
| July 21, 2020 | 10:00 AM | As more counties move into phase 2 of the Governor's Safe Start plan, it is yet unknown whether by the date of this public hearing restrictions of meeting in public places will be eased. Therefore, this hearing is being held virtually only. This will not be an in-person hearing and there is not a physical location available. | You must register for this public hearing on July 21, 2020, 10:00 AM PDT at: https://attendee.gotowebinar.com/register/6074456904428252685 After registering, you will receive a confirmation email containing information about joining the webinar. |

Date of intended adoption: Not sooner than July 22, 2020 (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) July 21, 2020

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) July 10, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
 The purpose of this proposal is to amend WAC 182-31-040 to support the school employees benefits board (SEBB) program.

Implement School Employees Benefits (SEB) Board policy resolutions and make technical amendments:
 Amended WAC 182-31-040 to make technical corrections for readability and update references as needed for structural changes. Amended subsection (3) to include all hours that a school employee receives compensation from their SEBB Organization for a paid holiday or while on approved leave to the hours that count while determining eligibility for SEBB program benefits. Amended subsection (6) to add a new method for a school employee who returns from an approved leave without pay to maintain or establish eligibility. Amended subsection (7) to clarify what benefits are available and the date that they will begin and to add an exception to when benefits are earned in the month of August.

Reasons supporting proposal: See purpose statement

Statutory authority for adoption:
 RCW 41.05.021, 41.05.160, SEBB Policy Resolutions 2020-01, 2020-02, and 2020-05

Statute being implemented: RCW 41.05.021, 41.05.160

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 | 360-725-0830 |
| 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: June 16, 2020

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:

A handwritten signature in black ink that reads "Wendy Barcus". The signature is written in a cursive style with a large, sweeping 'W' and 'B'.

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

(2) School employee eligibility criteria:

(a) A school employee is eligible for the employer contribution toward((s)) 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 in the school year becomes eligible for the employer contribution toward((s)) 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 toward((s)) SEBB benefits on the date they actually worked six hundred thirty hours in the school year.

(d) A school employee 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. All hours for which a school employee receives compensation from a SEBB organization during an approved leave (e.g., sick leave, personal leave, bereavement leave) or a paid holiday must be included when determining how many hours a school employee is anticipated to work, or did work, in the school year.

(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) A school employee who returns from approved leave without pay will maintain or establish eligibility for the employer contribution toward SEBB benefits if their work schedule, had it been in effect at the start of the school year, would have resulted in the school employee being anticipated to work the minimum hours to meet SEBB eligibility for the employer contribution in the school year. A school employee who regains eligibility under this subsection establishes eligibility for the employer contribution toward SEBB benefits as of the date they returned from approved leave without pay.

(7) When SEBB benefits begin:

(a) For a school employee who establishes eligibility under subsection (2)(a)(i) of this section (~~(SEBB benefits)~~), medical, dental, vision, basic life insurance, basic accidental death and dismemberment (AD&D) insurance, basic long-term disability (LTD) insurance, and if eligible, benefits under the salary reduction plan begin on the first day of work for the new school year. Supplemental life insurance, supplemental AD&D insurance, and supplemental LTD insurance begin on the first day of the month following the date the contracted vendor receives the required form or approves the enrollment.

(b) For a school employee who establishes eligibility under subsection (2)(a)(ii), (b), (c), ~~((e))~~ (d), or (6) of this section, (~~(SEBB insurance coverage)~~) medical, dental, vision, basic life insurance, basic AD&D insurance, basic LTD insurance, and if eligible, benefits under the salary reduction plan begin((s)) on the first day of the month following the date the school employee becomes eligible for the employer contribution toward((s)) SEBB benefits. Supplemental life insurance, supplemental AD&D insurance, and supplemental LTD insurance begin on the first day of the month following the date the contracted vendor receives the required form or approves the enrollment.

Exception: When a school employee establishes eligibility for the employer contribution toward SEBB benefits as described under subsection (2)(b) or (c), or (6) of this section, at any time in the month of August, SEBB benefits begin on September 1st only if the school employee is also determined to be eligible for the employer contribution toward SEBB benefits for the school year that begins on September 1st.

~~((7))~~ (8) If the school employee is not eligible under subsections (1) through ((5)) (6) 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.