



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 03, 2021

TIME: 7:53 AM

WSR 21-10-070

Agency: Health Care Authority, Public Employees Benefits Board (PEBB) Admin #2021-01.01

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 21-04-108 ; 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 182-12-208 What are the requirements regarding enrollment in dental under public employees benefits board (PEBB) retiree insurance coverage?
 WAC 182-12-250 Public employees benefits board (PEBB) insurance coverage eligibility for survivors of emergency service personnel killed in the line of duty.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 8, 2021	10:00 AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the agency will not provide a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead.	To attend the virtual public hearing, you must register at the following link: Registration URL https://attendee.gotowebinar.com/register/8620587191761803532 Webinar ID 384-227-715 After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of intended adoption: Not sooner than June 9, 2021 (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 8, 2021

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) May 21, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to amend and repeal rules to support the Public Employees Benefits Board (PEBB) Program.

Implement Public Employees Benefits (PEB) Board Policy Resolution and make other technical amendments:
Repealed WAC 182-12-208 to implement Policy Resolution PEBB 2021-01 removing the retiree 2-year dental enrollment requirement.

Amended WAC 182-12-250 to implement Policy Resolution PEBB 2021-01 removing the retiree 2-year dental enrollment requirement and to clarify survivors' enrollment requirements when returning to a PEBB health plan following deferment.

Reasons supporting proposal: See purpose statement.

Statutory authority for adoption: RCW 41.05.021, 41.05.160, Policy Resolution PEBB 2021-01

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:	Stella Ng	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:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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 3, 2021

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 initial 'W'.

WAC 182-12-250 Public employees benefits board (PEBB) insurance coverage eligibility for survivors of emergency service personnel killed in the line of duty. Surviving spouses, state registered domestic partners, and dependent children of emergency service personnel who are killed in the line of duty are eligible to enroll or defer enrollment in public employees benefits board (PEBB) retiree insurance coverage.

(1) This section applies to the surviving spouse, the surviving state registered domestic partner, and dependent children of emergency service personnel "killed in the line of duty" as determined by the Washington state department of labor and industries.

(2) "Emergency service personnel" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010.

(3) "Surviving spouse, state registered domestic partner, and dependent children" means:

(a) A lawful spouse;

(b) An ex-spouse as defined in RCW 41.26.162;

(c) A state registered domestic partner as defined in RCW 26.60.020(1); and

(d) Children. The term "children" includes children of the emergency service worker up to age twenty-six. Children with disabilities as defined in RCW 41.26.030(6) are eligible at any age. "Children" is defined as:

(i) Biological children (including the emergency service worker's posthumous children);

(ii) Stepchildren or children of a state registered domestic partner;

(iii) Legally adopted children;

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

(v) Children specified in a court order or divorce decree; or

(vi) Children as defined in RCW 26.26A.100.

(4) Surviving spouses, state registered domestic partners, and children who are eligible for medicare must enroll in both Parts A and B of medicare.

Note: For the exclusive purpose of medicare Part A as described in this subsection, "eligible" means the enrollee is eligible for medicare Part A without a monthly premium.

(5) The survivor (or agent acting on their behalf) must submit the required forms to the PEBB program to either enroll or defer enrollment in PEBB retiree insurance coverage as described in subsection (7) of this section. The forms must be received by the PEBB program no later than one hundred eighty days after the later of:

(a) The death of the emergency service worker;

(b) The date on the letter from the department of retirement systems or the board for volunteer firefighters and reserve officers that informs the survivor that they are determined to be an eligible survivor;

(c) The last day the surviving spouse, state registered domestic partner, or child was covered under any health plan through the emergency service worker's employer; or

(d) The last day the surviving spouse, state registered domestic partner, or child was covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage from the emergency service worker's employer.

(6) Survivors who do not choose to defer enrollment in PEBB retiree insurance coverage may choose among the following options for when their enrollment in a PEBB health plan will begin:

(a) June 1, 2006, for survivors whose required forms are received by the PEBB program no later than September 1, 2006;

(b) The first of the month that is not earlier than sixty days before the date that the PEBB program receives the required forms (for example, if the PEBB program receives the required forms on August 29th, the survivor may request health plan enrollment to begin on July 1st); or

(c) The first of the month after the date that the PEBB program receives the required forms.

Exception: Enrollment in the PEBB program's medicare advantage or medicare advantage-prescription drug plan may not be retroactive. If the forms are received after the date enrollment in PEBB retiree insurance coverage is to begin, the survivor may not select a medicare advantage or medicare advantage-prescription drug plan until a special enrollment period as described in WAC 182-08-198(2).

For surviving spouses, state registered domestic partners, and children who enroll, monthly health plan premiums and applicable premium surcharges must be paid by the survivor as described in WAC 182-08-180 (1)(c) except as provided in RCW 41.26.510(5) and 43.43.285 (2)(b).

(7) Survivors must choose one of the following two options to maintain eligibility for PEBB retiree insurance coverage:

(a) Enroll in a PEBB health plan:

(i) Enroll in medical; or

(ii) Enroll in medical and dental.

~~(iii) ((Survivors enrolling in dental must stay enrolled for at least two years before dental can be dropped, unless they defer PEBB retiree insurance coverage as described in WAC 182-12-205, or drop dental as described in WAC 182-12-208(4)).~~

~~(iv)) Dental only is not an option.~~

(b) Defer enrollment:

(i) Survivors may defer enrollment in PEBB retiree insurance coverage if continuously enrolled in qualifying coverage as described in WAC 182-12-205(3).

(ii) Survivors may enroll in a PEBB health plan as described in WAC 182-12-205(6) ~~((when they lose other coverage))~~. Survivors must provide evidence that they were continuously enrolled in one or more qualifying coverages as described in WAC 182-12-205 (3)(a) through (e) when enrolling in a PEBB health plan. ~~((The required form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends.))~~

Exception: Enrollment in the PEBB program's medicare advantage or medicare advantage-prescription drug plan may not be retroactive so the required forms and evidence of continuous enrollment must be received by the PEBB program no later than the last day of the month prior to the month coverage ends. If the forms are received after the date enrollment in PEBB retiree insurance coverage is to begin, the survivor may not select a medicare advantage or medicare advantage-prescription drug plan until a special enrollment period as described in WAC 182-08-198(2).

(iii) PEBB health plan enrollment and premiums will begin the first day of the month following the day that the other coverage ended for eligible spouses and children who enroll.

(8) Survivors may change their health plan during the annual open enrollment. In addition to the annual open enrollment, survivors may change health plans as described in WAC 182-08-198.

(9) Survivors will lose their right to enroll in PEBB retiree insurance coverage if they:

- (a) Do not apply to enroll or defer enrollment within the time-
lines as described in subsection (5) of this section; or
- (b) Do not maintain continuous enrollment in other qualifying
coverage during the deferral period, as described in subsection
(7)(b)(i) of this section.

REPEALER

The following section of the Washington Administrative Code is
repealed:

WAC 182-12-208 What are the requirements regarding
enrollment in dental under public
employees benefits board (PEBB) retiree
insurance coverage?