PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Health Care Authority, Public Employees Benefits Board (PEBB) Admin #2021-01.05

☐ 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 182-12-300 Public employees benefits board (PEBB) wellness incentive program eligibility and procedural requirements.

Hearing location(s):

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location (be specific)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 8, 2021</td>
<td>10:00 AM</td>
<td>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.</td>
<td>To attend the virtual public hearing, you must register at the following link: Registration URL <a href="https://attendee.gotowebinar.com/register/8620587191761803532">https://attendee.gotowebinar.com/register/8620587191761803532</a> Webinar ID 384-227-715 After registering, you will receive a confirmation email containing the information about joining the webinar.</td>
</tr>
</tbody>
</table>

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 WAC 182-12-300 to support the Public Employees Benefits Board (PEBB) Program.

Implement Public Employees Benefits (PEB) Board Policy Resolution:

Reasons supporting proposal: See purpose statement.

Statutory authority for adoption: RCW 41.05.021, 41.05.160, Policy Resolution PEBB 2021-15

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

 Federal Law? ☐ Yes ☒ No
 Federal Court Decision? ☐ Yes ☒ No
 State Court Decision? ☐ Yes ☒ 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 ☒ Governmental

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafting: Stella Ng</td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-0883</td>
</tr>
<tr>
<td>Implementation: Barbara Scott</td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-0830</td>
</tr>
<tr>
<td>Enforcement: Scott Palafox</td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-1858</td>
</tr>
</tbody>
</table>

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 ☒ No

☐ 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)  ☐ RCW 34.05.310 (4)(e)  (Dictated by statute)
    - (Internal government operations)
  - ☐ RCW 34.05.310 (4)(c)  ☐ RCW 34.05.310 (4)(f)  (Set or adjust fees)
    - (Incorporation by reference)
  - ☐ RCW 34.05.310 (4)(d)  ☐ 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)
    - (Correct or clarify language)

- ☐ This rule proposal, or portions of the proposal, is exempt under RCW ______.

### Explanation of exemptions, if necessary:

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**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:**

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WAC 182-12-300 Public employees benefits board (PEBB) wellness incentive program eligibility and procedural requirements. The board annually determines the design of the PEBB wellness incentive program.

(1) All subscribers, except PEBB subscribers who are enrolled in both medicare Parts A and B, and in the medicare risk pool as described in RCW 41.05.080(3), are eligible to participate in the PEBB wellness incentive program.

(2) Effective January 1, 2020, to receive the PEBB 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, eligible subscribers must complete PEBB wellness incentive program requirements during the current plan year by the following deadline:

   (a) For subscribers continuing enrollment in PEBB medical and subscribers enrolling in PEBB medical with an effective date in January through September, the deadline is November 30th; or
   (b) For subscribers enrolling in PEBB medical with an effective date in October through December, the deadline is December 31st.

(3) Subscribers who do not complete the requirements according to subsection (2) of this section, except as noted, within the time frame described are not eligible to receive a PEBB wellness incentive the following plan year.

Note: All eligible 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 contracted vendor 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.

(4) Effective January 1, 2018, an eligible subscriber will receive a separate PEBB wellness incentive for completing the SmartHealth well-being assessment on or before December 31st, of the current plan year. An eligible subscriber may only earn this separate PEBB wellness incentive once per plan year. Once earned, subscribers must claim the incentive on or before December 31st of the same calendar year it was earned.

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

   (a) For the wellness incentive described in subsection (2) of this section the subscriber is still eligible for the PEBB wellness incentive program and is enrolled in a PEBB medical plan in the year the incentive applies;
   (b) The funding rate provided by the legislature is designed to provide a PEBB wellness incentive program or a PEBB wellness incentive, or both; or
   (c) Specific appropriations are provided for wellness incentives.