



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 17, 2025

TIME: 10:57 AM

WSR 25-09-085

Agency: Health Care Authority, Public Employees Benefits Board (PEBB) Admin #2025-01.01

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 25-03-107 ; 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 are being amended:

182-16-2040 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements?

182-16-2070 What should a written request for administrative review and a request for brief adjudicative proceeding contain?

182-16-2090 Initial order.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 27, 2025	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_tPBE4ot9T0eY4kiqA4mp4A If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing

Date of intended adoption: Not sooner than May 28, 2025 (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

Beginning (date and time) April 18, 2025, 8:00 AM

By (date and time) May 27, 2025, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone 360-725-1349

Fax 360-586-9727

TTY Telecommunication Relay Service (TRS): 711

Email Johanna.Larson@hca.wa.gov

Other

By (date) May 9, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to make technical amendments in multiple sections within Chapter 182-16 WAC to support the Public Employees Benefits Board (PEBB) Program:

- Amend WAC 182-16-2040 to make a technical correction and clarify any subscriber aggrieved by a decision made by the PEBB wellness incentive program contracted vendor may appeal that decision to the PEBB Program.
- Amend WAC 182-16-2070 to include a statement that describes the appealing party or the appealing party's representative has read the notice of request and believes the contents of the brief adjudicative proceeding to be true and correct, and to add failure to provide documentation or reference to documentation, of decisions previously rendered may result in a rejection of the item being appealed.

<ul style="list-style-type: none"> Amend WAC 182-16-2090 regarding a written initial order will be rendered within 10 days after the presiding officer receives the contents of the request for a brief adjudicative proceeding. 			
Reasons supporting proposal: See purpose statement			
Statutory authority for adoption: RCW 41.05.021, 41.05.160			
Statute being implemented: RCW 41.05.021, 41.05.160			
Is rule necessary because of a: <div style="display: flex; justify-content: space-between;"> <div> Federal Law? Federal Court Decision? State Court Decision? </div> <div> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> </div>			
If yes, CITATION:			
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:			
Name of proponent: (person or organization) Health Care Authority Type of proponent: <input type="checkbox"/> Private. <input type="checkbox"/> Public. <input checked="" type="checkbox"/> 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	Cade Walker	PO Box 42716, Olympia, WA 98504-2716	360-643-7900
Enforcement	Jean Bui	PO Box 42716, Olympia, WA 98504-2716	360-725-1858
Is a school district fiscal impact statement required under RCW 28A.305.135? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name Address Phone Fax TTY Email Other <input checked="" type="checkbox"/> 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 and Small Business Economic Impact Statement Note: The Governor's Office for Regulatory Innovation and Assistance (ORIA) provides support in completing this part.			
(1) Identification of exemptions: This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). For additional information on exemptions, consult the exemption guide published by ORIA . Please check the box for any applicable exemption(s): <input type="checkbox"/> 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 19.85.025](#)(4). (Does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule: These rules apply to public employee benefits and do not affect small businesses.

(2) Scope of exemptions: *Check one.*

☒ The rule proposal: Is fully exempt. *(Skip section 3.)* Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal: Is partially exempt. *(Complete section 3.)* The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

☐ The rule proposal: Is not exempt. *(Complete section 3.)* No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*


If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: April 17, 2025	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

AMENDATORY SECTION (Amending WSR 24-18-076, filed 8/29/24, effective 1/1/25)

WAC 182-16-2040 How can a subscriber appeal a decision regarding the administration of wellness incentive program requirements? (1) Any subscriber aggrieved by a decision made by the public employees benefits board (PEBB) wellness incentive program contracted vendor 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 ~~((public employees benefits board (PEBB) wellness incentive program contracted vendor))~~ PEBB program.

(2) Any subscriber who disagrees with a decision in response to an appeal filed with the PEBB ~~((wellness incentive))~~ program ~~((contracted vendor))~~ may appeal the decision by submitting a request for a brief adjudicative proceeding to the PEBB appeals unit.

(a) The request for a brief adjudicative proceeding from a current or former employee must be received by the PEBB appeals unit no later than 30 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 182-16-2070.

(b) The request for a brief adjudicative proceeding from a retiree, a continuation coverage enrollee, a retired employee or retired school employee continuing PEBB health plan coverage when their employer group ceases participation, or a survivor must be received by the PEBB appeals unit no later than 60 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 182-16-2070.

(3) The PEBB appeals unit must 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, the decision of the PEBB wellness incentive program contracted vendor becomes the authority's final order without further action.

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-16-2070 What should a written request for administrative review and a request for brief adjudicative proceeding contain? (1) A written request for administrative review of the employing agency decision and a request for brief adjudicative proceeding should contain the following:

~~((1))~~ (a) The name and mailing address of the party requesting an administrative review or the brief adjudicative proceeding;

~~((2))~~ (b) The name and mailing address of the appealing party's representative, if any;

~~((3))~~ (c) Documentation, or reference to documentation, of decisions previously rendered through the appeal process, if any;

~~((4))~~ (d) A statement identifying the specific portion of the decision being appealed and clarifying what is believed to be unlawful or in error;

~~((5))~~ (e) A statement of facts in support of the appealing party's position;

~~((6))~~ (f) Any information or documentation that the appealing party would like considered;

~~((7))~~ (g) The type of relief sought; ~~((and~~

~~(8))~~ (h) The signature of the appealing party or the appealing party's representative; and

(i) A statement that describes the appealing party or the appealing party's representative has read the notice of request for an appeal and believes the contents to be true and correct.

(2) Failing to provide documentation, or reference to documentation, of decisions previously rendered through the appeal process as described in subsection (1)(c) of this section, may result in a rejection of the item being appealed.

AMENDATORY SECTION (Amending WSR 20-16-062, filed 7/28/20, effective 1/1/21)

WAC 182-16-2090 Initial order. Unless a continuance has been granted, ~~((within ten days after the public employees benefits board (PEBB) appeals unit receives a request for a brief adjudicative proceeding,))~~ the presiding officer ~~((must))~~ will render a written initial order that addresses the issue or issues raised by the appellant in their appeal within 10 days after the presiding officer receives the contents of the request for a brief adjudicative proceeding. The presiding officer must serve a copy of the initial order on all parties and the initial order must contain information on how the appellant may request review of the initial order.