

Title: Election period tolling for applicants with mental or physical impairment or incapacitation

PEBB Program Administrative Policy 56-2

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| Contact: | Policy and Rules Coordinator, ERB Division | Effective: | January 1, 2020 |
| | | Rescinded: | |
| Associated RCW: | | Supersedes: | |
| Associated PEB Board Policy Resolutions: | | | |
| Associated WAC: | 182-08-198 182-08-199 182-12-128 182-12-133 182-12-141 182-12-142 182-12-146 182-12-171 182-12-180 182-12-211 182-12-262 182-12-265 182-12-270 | | |
| Assoc. fed law/reg: | 29 CFR § 2560.503-1 | Owner: | Policy, Rules & Compliance Manager, ERB Division |
| Associated Procedures: | | | |
| Associated Forms & Communication | | Approved by: | |
| | | Position: | Director of the PEBB Program |
| | | Date approved: | |

Purpose:

This policy applies whenever an applicant (or another party acting on behalf of the applicant) requests tolling of the continuation coverage, retiree insurance coverage, new employee eligibility, regained eligibility, annual open enrollment or special open enrollment election period for reason of mental or physical impairment or incapacitation.

This policy establishes the methodology that the Public Employees Benefits Board (PEBB) Program will use to make a determination of mental or physical impairment or incapacitation for the purpose of tolling the election period of continuation coverage, retiree insurance coverage, new employee eligibility, annual open enrollment, or special open enrollment.

This policy provides timing requirements to request tolling of the election period for reason of mental or physical impairment or incapacity.

For the purposes of this policy, “tolling” or “tolled” means to pause, delay or suspend the time period to elect continuation coverage, retiree insurance coverage, or PEBB insurance coverage in the case of new employee eligibility, annual open enrollment, or special open enrollment.

Policy:

1. Election Period Tolling Eligibility: The applicant, their legal representative, or any party acting on behalf of the applicant may request tolling of the election period due to the mental or physical impairment or incapacitation of the applicant.
2. A determination of the applicant’s mental or physical impairment or incapacitation shall be made by the applicant’s physician. A written note from the applicant’s physician will be sufficient proof of the applicant’s impairment or incapacitation if it includes the following information:
 - a. The condition that renders the applicant mentally or physically impaired or incapacitated; and
 - b. The date that the applicant’s mental or physical impairment or incapacitation began, and if it has ended, the date the period or incapacitation ended.
3. If the applicant, or a party acting on behalf of the applicant, is not able to provide a note from the applicant’s physician, then the Health Care Authority’s (HCA) Clinical Quality and Care Transformation Division (CQCT) will make a determination of the applicant’s impairment or incapacitation based upon supporting documents submitted on behalf of the applicant. The supporting documents must clearly state the condition that renders the applicant mentally or physically impaired or incapacitated, and the date the impairment or incapacitation began and if the impairment or incapacitation has ended, the date it ended.
4. Requests for election period tolling due to mental or physical impairment or incapacitation of the applicant must be made in writing and received by the PEBB Program no later than one hundred twenty days after the date on the denial notice was issued by the HCA or the employing agency or from the date of the action that the applicant is now requesting be tolled. A written note from the applicant’s physician as described in section 2 above, or supporting documentation as described in section 3 must be submitted with the request for tolling of the election period.
5. Upon approval, the election period shall be tolled from the date of the applicant’s mental or physical impairment or incapacitation. The applicant, their legal representative, or any party acting on behalf of the applicant, will receive the balance of the election period to make the election of continuation coverage, retiree insurance coverage, or PEBB insurance coverage.

Example: During the 60 day election period, the applicant gets into an accident and becomes hospitalized in a coma on day 25. The applicant fully recovers and is released from the hospital on day 55. On day 75, applicant sends in an election form to HCA to enroll in continuation coverage. Along with the election form, they submit a letter from the treating physician stating the applicant’s condition and that from day 25 through 55, the applicant was both mentally and physically incapacitated. Because the applicant provided adequate documentation for the incapacitation, the election period timeline will be tolled, granting an additional 30 days (day 55 – day

25 = 30 days), so the election form on day 75 is timely, and they would not be considered untimely until day 90.

6. The balance of the tolled election period will begin to run (i.e., the time period to make an election is no longer paused, delayed, or suspended and will begin to run out) on the date that the applicant reestablishes coherence or capability, or the date legal representation or guardianship is established, as demonstrated by supporting documentation.
7. Documentation of legal representation or guardianship must be received by the PEBB Program no later than one hundred twenty days from the date on the denial was issued by the Health Care Authority (HCA).
8. In the case of a party acting on behalf of the applicant, the balance of the tolled election period will ~~begin to run~~start (i.e., the time period to make an election is no longer paused, delayed, or suspended and will begin to run out) on the date the party began acting on behalf of the applicant.
9. Once the election has been made within the balance of the tolled election period (i.e., within the time period remaining after the election period is no longer paused, delayed, or suspended), coverage will begin retroactive to the date of the qualifying event and is contingent upon payment of any unpaid premiums and unpaid applicable premium surcharges. All retroactive premiums are paid post-tax.
10. If the request for tolling is denied, the applicant or another party acting on behalf of the applicant may appeal the denial to the PEBB Appeals Unit by following the process described in WAC 182-16-2030.