

**WELLNESS PROGRAM PLAN DOCUMENT FOR
THE WASHINGTON STATE HEALTH CARE AUTHORITY
PUBLIC EMPLOYEES' BENEFITS BOARD PROGRAM**

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I. Wellness Programs

A. Comprehensive Wellness Program Established

State of Washington Executive Order 13-06, signed by Governor Jay Inslee on October 30, 2013, directed the convening of the State Employee Health and Wellness Steering Committee. It directed that committee to develop a comprehensive wellness program for state employees. The order directed the Health Care Authority's (HCA) Public Employees' Benefits Board (PEBB) Program to implement that program. This comprehensive wellness program is established also pursuant to 45 C.F.R. § 146.121, RCW 41.05.540, and chapters 182-08, 182-12, and 182-16 of the Washington Administrative Code. The comprehensive wellness program includes, but is not limited to, the following:

1. *Washington Wellness Worksite Designation Program (also known as SmartHealth Worksite Wellness Roadmap)*

Agencies must participate in the Washington Wellness Worksite Designation Program administered by the HCA. That program is also authorized and established in RCW 41.05.540 as the State Employee Health Program. The Washington Wellness Worksite Designation Program provides structure and technical and training assistance to State Agencies developing internal worksite wellness programs for employees. Internal worksite wellness programs are referred to as Worksite Wellness Programs.

2. *PEBB Health Insurance Wellness Plan*

The PEBB health insurance wellness plan is known as SmartHealth or the PEBB Wellness Incentive Program. It operates under WAC 182-12-300. This plan aligns with the Washington Wellness Worksite Designation Program. SmartHealth is intended to help employees and family members achieve their personal health and wellness goals. This includes efforts to reduce smoking rates.

3. *Tobacco-Use premium surcharge*

The Tobacco-Use premium surcharge is an element of the comprehensive wellness program for state employees. The surcharge is established by the Legislature in each biennial budget.

B. Structure

The SmartHealth program and the Tobacco-Use premium surcharge are integrated components of PEBB medical insurance coverage. The Worksite Wellness Programs administered by State Agencies are separate wellness programs that do not provide or pay for health or medical benefits.

II. Effective Date

This plan document is generally effective beginning on January 1, 2021.

III. Comprehensive Wellness Program Design

A. General

1. Requirements

The PEBB will determine the requirements for eligibility for SmartHealth and for completion of requirements for SmartHealth Incentives. The PEBB will determine these requirements with input from the Health and Wellness Steering Committee. The SmartHealth wellness incentives are set by the Coalition of Unions agreement (collective bargaining agreement). The PEBB will set the financial value of the Tobacco-Use premium surcharge within the confines of Legislative direction.

2. Components

The PEBB Wellness Program contains both an Activity-Only Wellness Program component known as SmartHealth and an Outcome-Based Wellness Program component that is the Tobacco-Use premium surcharge.

3. Administration of Worksite Wellness Programs

Individual State Agencies administer Worksite Wellness Programs as Participatory Wellness Programs. State Agencies must not offer Incentives that depend on medical examinations or on inquiries related to disabilities. Worksite Wellness Programs are subject to the Incentive limit described in PEBB Program Policy 91-3.

B. FMLA, PFML, and USERRA Leaves of Absence

If a Subscriber goes on qualifying leave under the Family Medical Leave Act ("FMLA"), Washington Paid Family and Medical Leave ("PFML"), or the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), then, to the extent required by FMLA, PFML, or USERRA, as applicable, that Subscriber may continue to earn Incentives.

C. Activity-Only Wellness Program

The Activity-Only Wellness Program component of the Wellness Program is called SmartHealth. Under that component, Subscribers and Sparters enrolled in PEBB medical coverage can access an online wellness portal to complete a Well-being Assessment and track their involvement in wellness activities to earn points.

1. Eligibility

(a) Subscribers and Sparters

- (i) Subscribers who are enrolled in both Medicare Parts A and B and are also in the Medicare risk pool (that is, Medicare is their primary coverage) are not eligible to participate in the SmartHealth program except as provided in III.C.1.b below. Spartners of these Subscribers are not eligible to access the SmartHealth wellness portal.
 - (ii) All Subscribers, Spartners, and Subscribers who waive enrollment in a PEBB medical plan, other than those identified in III.C.1.a.i above, are eligible to participate in SmartHealth. They may access the SmartHealth wellness portal to take a Well-being Assessment and participate in wellness activities. However, only Subscribers are eligible to earn SmartHealth Incentives based on their participation.
- (b) Non-Spartner Dependents are not eligible to access or participate in the SmartHealth wellness program and are not eligible to qualify for Incentive(s).

2. Incentive Deadlines

- (a) To receive the SmartHealth 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 SmartHealth Incentive program requirements as described in the PEBB SmartHealth webpage, <https://www.hca.wa.gov/employee-retiree-benefits/pebb-smarthealth>, by the latest applicable date below:
- (i) For Subscribers continuing enrollment in PEBB medical from the previous year and Subscribers enrolling in PEBB medical with a Medical Effective Date in January through September the deadline is November 30 of the *current* year (for example, if the Subscriber's Medical Effective Date is March 1, the Subscriber must complete the SmartHealth Incentive program requirements by November 30 of that *same* year in order to be eligible for the Incentive for the *following* year); or
 - (ii) For Subscribers enrolling in PEBB medical with a Medical Effective Date in October through December, the deadline is December 31 of the *current* year (for example, if the Subscriber's Medical Effective Date is October 1, the Subscriber must complete the SmartHealth Incentive program requirements by December 31 of that *same* year in order to be eligible for the Incentive for the *following* year.
 - (iii) For any Subscriber to earn the gift card for completing the SmartHealth Well-being Assessment in any year under III.C.3.b, the Subscriber must complete and claim the Well-being Assessment by December 31 of that year.

- (b) Subscribers who do not complete the requirements according to subsection III.C.2.a, or according to an alternative as described in this Plan, within the time limits described in subsection III.C.2.a above are not eligible to receive SmartHealth Incentives.
- (c) If a Subscriber has a "termination" (such as a transfer between agencies, change in eligibility status (LWOP, COBRA), or retirement, etc.) in PEBB medical coverage for any reason causing a system termination record to be initiated, and then the Subscriber re-gains eligibility for PEBB medical coverage with a new Medical Effective Date, the deadline that applies will be based on the new Medical Effective Date.

3. Incentives and requirements

- (a) To be eligible for a SmartHealth Incentive, all Subscribers must meet the requirements explained on the PEBB webpage for SmartHealth, <https://www.hca.wa.gov/employee-retiree-benefits/pebb-smarthealth>, within the time limits described section III.C.2 in this Plan document. Subscribers who do not meet the requirements within those time limits have not qualified for Incentives for the year.
- (b) One Incentive is a \$25 Amazon gift card. To qualify for this, eligible Subscribers described in III.C.1 .a.ii must complete the SmartHealth Well-being Assessment, worth 800 points, on SmartHealth. Once earned, subscribers must claim the reward from SmartHealth on or before December 31 of the same calendar year it was earned.
- (c) Another Incentive is the \$125 wellness incentive. To qualify for this, eligible Subscribers described in III.C.1.a.ii must complete the SmartHealth Well-being Assessment and earn at least 2,000 total points on SmartHealth by joining and tracking activities on SmartHealth. Only the Subscriber is eligible to receive SmartHealth Incentives, and the subscriber must be enrolled (not waived) in a PEBB medical plan in the year in which the Incentive is distributed. Qualifying Subscribers enrolled in a consumer-directed health plan (CDHP) receive a one-time deposit of \$125 into the Subscriber's health savings account the following year. All other qualifying Subscribers receive a \$125 reduction to the Subscriber's medical deductible the following year.
- (d) A Subscriber can earn both types of Incentives under this subsection III.C.3 in one year, but cannot earn either Incentive more than once in each year.

4. Timelines for Incentives

Incentives provided by the Administrator are available to all similarly situated individuals once each year.

For the \$25 gift card, the gift card is available to be claimed from SmartHealth upon completion of the Well-being Assessment. Subscribers must claim the Incentive on or before December 31 of the same calendar year it is earned.

For the \$125 wellness Incentive, each January the PEBB Program will determine whether a Subscriber met the completion rule requirements during the previous plan year and met the other eligibility requirements in WAC 182-12-300 on January 1 of the Plan Year.

5. *Alternatives*

Eligible Subscribers described in C.1 .a.ii can earn Incentives. Subscribers for whom the activities are unreasonably difficult due to a medical condition or are medically inadvisable may be able to earn the same Incentive by different means. The PEBB Program will work with enrollees and their physician to define an individual wellness program that provides the opportunity to qualify for the same Incentive in light of the enrollee's health status. PEBB Policy 91-1 explains the process for requesting an alternative. Policy 91-1 is available at <https://www.hca.wa.gov/assets/pebb/pebb-policy-91-1-wellness-incentive-reasonable-alternatives-2021.pdf>.

6. *Appeals Procedure*

- (a) Subscribers may appeal a decision by the Administrator regarding their completion of the requirements for an Incentive offered under the SmartHealth wellness program, or regarding a request for an alternative to a SmartHealth wellness program requirement. Such appeals must be made to the Administrator. After that appeal, Subscribers may appeal a decision by the Administrator to the PEBB Program.
- (b) Subscribers may appeal a decision by the PEBB Program concerning eligibility to participate in the SmartHealth wellness program or receive an Incentive under the program. Such appeals must be made to the PEBB Appeals Unit.
- (c) Chapter 182-16 WAC explains the process for appealing these decisions, including deadlines.

7. *Conditions for Incentives*

The Administrator will provide a SmartHealth Incentive only if all the following apply:

- (a) The Subscriber is still eligible for the SmartHealth Incentive program in the year the Incentive applies;
- (b) The funding rate provided by the legislature is designed to provide a SmartHealth Incentive program or a SmartHealth Incentive, or both;
- (c) Specific appropriations are provided for wellness Incentives; and
- (d) The Subscriber meets all requirements for the Incentive.

D. Outcome-Based Wellness Program

1. *Eligibility*

The Tobacco-Use premium surcharge applies to all Subscribers, Spartner, and Non-Spartner Dependents.

2. *Requirements*

- (a) If a Subscriber attests to their own or their Spartner's or their Non-Spartner Dependent's use of Tobacco Products or if the Subscriber fails to attest to no use of Tobacco Products in accordance with the timelines in WAC 182-08-185, the Subscriber will pay the Tobacco-Use premium surcharge. The surcharge will be collected from Subscribers during each month of the Plan Year. The PEBB Program will charge only one Tobacco-Use premium surcharge per account, regardless of the number of people who use tobacco and are enrolled on the Subscriber's account.
- (b) A Subscriber may avoid paying the Tobacco-Use premium surcharge by attesting on the prescribed form by either paper or PEBB My Account that neither the Subscriber, nor the Spartner, nor any Non-Spartner Dependents use Tobacco Products, or attesting that all Tobacco Products users have enrolled in a qualified tobacco-cessation program. Subscribers may submit attestations to the PEBB Program anytime during the Plan Year. An attestation is effective the month after the PEBB Program receives it.
- (c) A Subscriber may also avoid paying the Tobacco-Use premium surcharge if the Tobacco User contacts the PEBB Program to request an alternative in accordance with the provisions in 111.D.3 below, and complies with the agreed alternative.

3. *Alternatives*

In some cases, a Subscriber's, Spartner's, or Non-Spartner Dependent's primary care physician might have health-related concerns about him or her joining a tobacco cessation program or ceasing his or her use of Tobacco Products. In that case, the Subscriber, Spartner, or Non-Spartner Dependent may submit to the PEBB Program documentation from that physician stating that a tobacco cessation program is not medically appropriate and containing a recommended alternative. The PEBB Program cannot independently seek this information from the physician. The PEBB Program will provide a reasonable alternative standard that accommodates the recommendations of the physician with regard to medical appropriateness. The procedures are in PEBB Policy 91-1. The 2021 version of that policy is available at <https://www.hca.wa.gov/assets/pebb/pebb-policy-91-1-wellness-incentive-reasonable-alternatives-2021.pdf>. For more information, contact the PEBB Program at 1-800-200-1004.

4. *Appeals Procedure*

Any Subscriber may appeal a decision regarding the Tobacco-Use premium

surcharge made by a State Agency or Employer Group. Chapter 182-16 WAC explains the process for appealing these decisions, including deadlines.

E. Participatory Wellness Program

The Participatory Wellness Program component of the comprehensive wellness program is the Worksite Wellness Program. State Agencies administer this program internally. The Washington Wellness Worksite Designation Program at HCA provides structure and technical and training assistance to State Agencies and other PEBB employer groups involved in developing a Worksite Wellness Program for employees.

1. Eligibility

Employees of the employing State Agency or employees eligible based on the respective State Agency's collective bargaining agreement can participate in the Worksite Wellness Program.

2. Design Requirements

- (a) The program must provide eligible employees a reasonable chance of improving health or preventing disease.
- (b) The program must be available to all similarly situated employees.
- (c) Eligible employees with disabilities must have equal access to program benefits and greater obligations cannot be imposed upon them in order to obtain equal benefits.
- (d) The program cannot be overly burdensome, cannot be a subterfuge for violating the ADA or other laws prohibiting employment discrimination, and cannot be highly suspect in the method chosen to promote health or prevent disease.
- (e) The program cannot conduct medical examinations or disability-related inquiries.

3. Incentive Requirements

State Agencies and PEBB employer groups may develop their own requirements for earning Incentives, except that the requirements to earn the Incentive cannot be based on a participant's satisfaction of a standard related to a Health Factor and cannot require a participant to disclose results from medical exams or physical or mental capacity exams.

4. Incentive Limit

Incentives under the program are subject to the limit described in PEBB Program Policy 91-3 that is available at <https://www.hca.wa.gov/assets/pebb/pebb-policy-91->

[3-washington-wellness-incentive-requirements-2021.pdf](https://www.hca.wa.gov/assets/pebb/pebb-policy-91-3-washington-wellness-incentive-requirements-2021.pdf).

5. *Alternatives*

State Agencies must provide reasonable accommodations (modifications or adjustments) to enable employees with disabilities to have equal benefits and privileges of employment, which includes participation in employee wellness programs. PEBB Policy 91-1 contains more information on requesting reasonable alternative.

6. *Appeals*

Any eligible employee may appeal a decision regarding the incentive by following the appeals process established by his or her employing State Agency.

7. *Worksite Wellness Incentives*

PEBB Policy 91-3, that is available at <https://www.hca.wa.gov/assets/pebb/pebb-policy-91-3-washington-wellness-incentive-requirements-2021.pdf> states the requirements and standards for worksite wellness Incentives.

IV. Record-keeping and Administration

The PEBB Program owns and will maintain all records related to the SmartHealth Program in accordance with appropriate state and federal laws, such as the Washington Public Records Act and HIPAA. Each State Agency owns and will maintain all records relating to the Worksite Wellness Program at that agency.

V. General Provisions

A. Headings

The headings throughout this document are inserted for convenience of reference. They are not part of this Wellness Program. They do not indicate or control the meaning or construction of any provisions.

B. Which Provisions Control

If PEBB resolutions, PEBB program policies, state law or rule, or federal law or rule conflict with this document, those resolutions, policies, laws, and rules will control.

C. No Contract of Employment

Nothing contained in this document is intended as a contract or other arrangement between a Subscriber, Spartner, Non-Spartner Dependent, or other dependent of a

Subscriber and a State Agency or Employer Group, guaranteeing employment or health benefits for any specific period. This document will not be construed as a guarantee of employment and does not amend or modify any employment or other agreements between a State Agency or Employer Group and a Subscriber, Spartner, Non-Spartner Dependent, or other dependent of a Subscriber whether entered before or after the effective date of the Wellness Program or this document.

D. No Contract of Continuous Coverage

Nothing contained in this document is intended as a contract or other arrangement between the PEBB Program and a Subscriber, Spartner, Non-Spartner Dependent, or other dependent of a Subscriber receiving coverage for any specific period. Moreover, a Subscriber, Spartner, or Non-Spartner Dependent receiving continuation coverage (as defined in WAC 182-08- 015) must still comply with any governing provisions of state and federal law.

E. Amendment and Termination

1. The continuation of this Wellness Program is dependent on funding from the Washington State Legislature. The value of any Incentives under the Wellness Program depends on funding from the Washington State Legislature. Only the Washington State Legislature may adjust the Incentive amounts under the Wellness Program.
2. Without providing prior notice to PEBB members, either the PEBB (after consulting with the Health and Wellness Steering Committee) or the Washington State Legislature may change the terms and conditions for receiving an Incentive under the Wellness Program.

F. Governing Law

This Wellness Program will be construed, administered, and enforced according to the laws and regulations of the state of Washington, to the extent not superseded by the Internal Revenue Code of 1986, the Public Health Service Act of 1944, HIPAA, ADA, other federal law, or any rules promulgated under these authorities.

G. Reimbursement

1. If a Subscriber receives any Incentives improperly from the Administrator through the SmartHealth program, the Subscriber must promptly reimburse the PEBB Program for the improper Incentive.
2. If a Subscriber believes he or she is entitled to an Incentive that was not provided, he or she may contact either the PEBB Program or the Administrator directly for assistance or appeal under chapter 182-16 WAC.
3. If an eligible employee receives any Incentives improperly from the employing State Agency through the Worksite Wellness Program, the Subscriber must promptly reimburse the State Agency for the improper Incentive.

H. Non-Assignability of Incentives

Subscribers or eligible employees under the Worksite Wellness Program may not assign Incentives to other people. Any attempt to assign an Incentive will not be recognized, except to the extent required by law.

I. Severability

If any court of appropriate jurisdiction declare any part of this document void, such declaration will have no effect on the remaining parts.

VI. Definitions

Unless otherwise defined and unless the context clearly requires otherwise, capitalized terms appearing in this document have the following meanings, and singular forms and plural forms have corresponding meanings:

A. "Activity-Only Wellness Program"

A Health-Contingent Wellness Program that requires Subscribers to perform or complete an activity related to a Health Factor in order to obtain an Incentive but does not require Subscribers to attain or maintain a specific health outcome.

B. "ADA"

The Americans with Disabilities Act of 1990 and regulations codified in 28 CFR parts 35 and 36.

C. "Administrator"

The entity that administers the SmartHealth wellness program and provides applicable Incentives to Subscribers under that program. The Administrator may be the PEBB Program or a third party contracted with the HCA to act as the Administrator.

D. "COBRA"

The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and regulations under it.

E. "Employer Group"

An entity participating in PEBB insurance coverage under a contract as described in WAC 182-08-245.

F. "Health and Wellness Steering Committee"

The committee established by Washington gubernatorial Executive Order 13-06, signed October 30, 2013.

G. "Health-Contingent Wellness Program"

A program that requires an individual to satisfy a standard related to a Health Factor to

obtain an Incentive, or that requires an individual to undertake more than a similarly situated individual based on a Health Factor in order to obtain the same Incentive. A Health-Contingent Wellness Program may be an Activity-Only Wellness Program or an Outcome-Based Wellness Program.

H. "Health Factor"

In relation to an individual, any of the following health-status-related factors: health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability, or disability.

I. "HIPAA"

The Health Insurance Portability and Accountability Act of 1996, and regulations adopted under it.

J. "Incentive"

Premium discounts (such as avoiding paying the tobacco-use premium surcharge), rebates, or modification of otherwise applicable cost-sharing amounts (including copayments, deductibles, or coinsurance) so long as certain conditions are satisfied. Incentives may be cash or non-cash rewards (such as gift cards) and may be unrelated to a health plan or benefit. An incentive may take the form of obtaining a reward or avoiding a penalty. Incentives may be referred to as rewards in this document as well.

K. "Medical Effective Date"

The date the Subscriber's PEBB medical insurance coverage became effective.

L. "Non-Spartner Dependent"

A Subscriber's dependent who is enrolled in a PEBB medical plan as a dependent of the Subscriber, is not a Spartner, and is at least 13 years old.

M. "Outcome-Based Wellness Program"

A Health-Contingent Wellness Program that requires Subscribers to attain or maintain a specific health outcome in order to obtain an Incentive, or that requires Subscribers to comply with an educational program or activity related to the specific health outcome in order to obtain an Incentive.

N. "Participatory Wellness Program"

A wellness program that does not condition eligibility for an incentive on a participant's satisfaction of a standard related to a Health Factor.

O. "PEBB"

The nine-member public employees' benefits board, appointed by the governor under chapter 41.05

RCW.

P. “PEBB Program”

The program within the HCA that administers insurance and other benefits for eligible employees (as defined in WAC 182-12-114), eligible retired and disabled employees (as defined in WAC 182-12-171), eligible dependents (as defined in WAC 182-12-260), eligible surviving spouses, state registered domestic partners, and dependent children (as defined in WAC 182-12-250), and others as defined in RCW 41.05.011.

Q. “PEBB Wellness Program”

The PEBB Program’s non-discriminatory wellness program, as described in 45 C.F.R. §146.121, that contains both an Activity Only Wellness Program component known as SmartHealth, and an Outcome-Based Wellness Program component known as Tobacco-Use premium surcharge.

R. “Plan Year”

The calendar year beginning January 1 and ending on December 31.

S. “RCW”

The Revised Code of Washington.

T. “Spartner”

A Subscriber’s spouse or state-registered domestic partner who is enrolled as a dependent on the Subscriber’s PEBB medical plan.

U. “State Agency”

An office, department, board, commission, institution, or other separate unit or division, however designated, of the Washington State government. It includes the Washington legislature and all its components, the executive branch, and all agencies and courts within the judicial branch, as well as state institutions of higher education.

V. “Subscriber”

Any PEBB Subscriber as defined in WAC 182-12-109.

W. “Tobacco Product”

Any product made with or derived from tobacco that is intended for human use, including any component, part, or accessory of a Tobacco Product. This includes, but is not limited to, cigars, cigarettes, pipe tobacco, chewing tobacco, and snuff. It does not include e-cigarettes or United States Food and Drug Administration (FDA)-approved quitting aids.

X. "Tobacco Use"

Any use of Tobacco Products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

Y. "WAC"

The Washington Administrative Code.

Z. "Year"

The calendar year from January 1 through December 31.

VII. Entire Plan

This Comprehensive Wellness Program plan document and the documents incorporated by reference herein shall constitute the only legally governing documents for the Comprehensive Wellness Program. All statements made by the employer or the PEBB Program shall be deemed representations and not warranties. No communication shall amend or modify the terms of this Wellness Program plan document unless in writing signed by the PEBB Program.

IN WITNESS THEREOF, the Health Care Authority has caused this instrument to be executed by its duly authorized officer as of the date shown below, to be effective as of January 1, 2021.

THE WASHINGTON STATE HEALTH CARE AUTHORITY



By: _____ (signature)
Dave Iseminger, Director of the PEBB Program

Date: December 31, 2020