

School Employees Benefits Board
Meeting Minutes

May 7, 2020
Health Care Authority
Sue Crystal Rooms A & B
Olympia, Washington
9:00 a.m. – 11:30 a.m.

Members Present via Phone

Lou McDermott, Chair
Terri House
Dawna Hansen-Murray
Pete Cutler
Wayne Leonard
Dan Gossett
Katy Henry
Alison Poulsen

SEB Board Counsel

Katy Hatfield

Call to Order

Lou McDermott, Chair, called the meeting to order at 9:01 a.m. Sufficient members were present to allow a quorum. Board introductions followed. Due to COVID-19 and the Governor's Proclamation 20-28, today's meeting is telephonic only and will address only those topics necessary and routine to complete the regular cycle of activity in our Board season.

Meeting Overview

Dave Iseminger, Director, Employees and Retirees Benefits (ERB) Division, provided an overview of the agenda.

There is no specific follow up to the April meeting, but I did want to provide two general updates. The first is the status of open enrollment appeals. We are near the finish line. HCA had 8,505 appeals, with 98% fully adjudicated, leaving only 172 appeals to complete. All of the 172 are instances which require engaging with either the school district or directly with the member themselves to understand exactly what relief was being requested.

For example, some indicated, "I got enrolled in the wrong medical plan" without indicating the medical plan they believed they were supposed to be enrolled in. Originally about 500 subscribers needed contacting throughout the appeal process to get that level of information. We're down to about 150 subscribers that represents those 172 appeals. The final appeals should be resolved in the next week or two.

The second update is the result of the COBRA COVID resolutions passed at the last Board Meeting. HCA brought a recommendation to expand the option for the number of months an individual can be on self-pay continuation coverage and this Board passed those resolutions, as did the PEB Board. Between the two programs, we had 120 individuals whose COBRA or continuation coverage would have terminated during the COVID period. We've reached out to all 120 of them. Although we don't have a breakdown by Program, to date, 30 have elected to maintain that continuation coverage on a self-pay basis, 40 declined to take that option for additional coverage, and 50 are still in the consideration phase.

Optional Benefits

Cade Walker, Executive Special Assistant, ERB Division. Slide 2 – Overview. I'll give a brief review of legislation passed this session.

Slide 3 – HB 2458 (2020). There are three main points I want to review. First, this legislation prohibits school districts from offering any form of basic or optional benefits that compete with SEB Board offered benefits or benefits offered under the authority of the Health Care Authority. Benefits offered under HCA authority are benefits under our cafeteria plan such as the Medical Flexible Spending Arrangement (FSA) and the Dependent Care Assistance Program (DCAP).

The legislation delineated particular benefits school districts may offer, if not otherwise offered by the SEBB Program. It further authorizes the SEB Board to study and offer (pending funding) the same delineated benefits. These benefits must be voluntary and employee paid. Though school districts may continue to offer VEBA that is employer funded.

Lastly, this legislation requires school districts, health carriers, vendors, and the Health Care Authority to work together to modify, remove, or discontinue any district-based benefit that competes with SEBB or HCA offered benefits.

Dave Iseminger: In the Appendix of Cade's presentation is a copy of the legislation as signed by the Governor. I want to draw particular attention to "term life insurance". There have been questions on this subject. If the Board offers a term life insurance, which is the product the SEBB Program offers, can the district offer whole life insurance? If this Board offers long-term disability, can a district do short-term disability? If the Health Care Authority offers a full FSA, can a district offer a limited FSA?

The legislation is very clear. It's any form of the basic or optional benefit. It includes all disability products since there's one offered within the Program. All FSA is off the table. All life insurance is off the table. This has been a consistent question this past year.

Cade Walker: Slide 4 – HB 2458 (2020). Delineated benefits articulated in this bill are: emergency transportation, identity protection, legal aid, long-term care insurance, noncommercial personal automobile insurance, personal homeowners or renters insurance, pet insurance, fixed payment insurance (specific disease, illness-triggered, hospital confinement, etc.) travel insurance, and the Voluntary Employees Beneficiary Association (VEBA) accounts.

Specific disease, illness-triggered, hospital confinement, or other fixed payment insurance does include cancer insurance, which came up often in conversations.

The SEB Board may offer delineated benefits but is not required to. If the Board wants to consider new benefits, HCA recommends benefits start no sooner than the 2021 Board year for administration purposes to ensure a timely study to gather information and the ability to plan accordingly.

Dave Iseminger: Does the Board wish to request the agency to start analyzing any of these benefits sooner than next Board year? With the Program being new, and the changing world we're living in right now, our energy is probably better spent elsewhere at this time. Next Board season is our recommendation for the earliest start date of the process. As we've described over the past two years, it takes anywhere from 18 to 24 months to generate a new benefit. Even if we were to start in 2021, it would be effective in January 2023 at the earliest.

In the meantime, the districts can offer any of these benefits. Does the Board agree with this recommendation? It's not a formal vote. [***There was a pause of silence.***] I will assume silence is general agreement.

Cade Walker: Slide 5 – Annual Timeline. This slide is our proposed timeline for the reporting process for the school districts and the Health Care Authority for the reporting of optional benefits. The legislation requires the school districts to report the optional benefits they are providing to their employees by December 1 of every year. Appreciating this is going to be an annual process, we've tried to streamline this moving forward, and appreciate that there may be some adjustments in timing as years progress.

HCA anticipates in the November - December timeframe, similar to last year, sending a survey to school districts to report the optional benefits they're providing to HCA, with a due date of December 1 every year.

The January - February timeframe is when HCA would submit the results of that survey to the SEB Board to fulfill the consultation requirements in the legislation. We could discuss trends, identify competing benefits, and discuss next steps.

Between February and August of each year, HCA would engage with school districts and carriers with competing components of benefits, or to phase out the district offered benefit.

If the competing benefit can be modified to become compliant, it would not be competing with SEBB or HCA offered benefits. That process would likely require a filing by the carrier to the Office of the Insurance Commissioner (OIC). HCA would work closely with the carrier and the school district to ensure adequate timing so the benefit could be offered at the start of the school year. HCA will need a good working relationship with the carriers and districts when we identify benefits that can be modified. Otherwise, the ending of a benefit does not necessarily have the same sort of strict timeline. It can be phased out for the next school year.

Dave Iseminger: HCA will work and be reasonable with both the carriers and the districts, especially on the timeline, because depending on when filings happen with OIC, and their cyclical nature with regulating so many different parts of the commercial market, some times of the year are better than others. As long as there's a good faith effort between both the district, the carrier, and ourselves, if it takes longer time expected, we will be reasonable about that aspect of working together to comply with the statutory intent as passed in this recent bill.

Cade Walker: Slide 6 – 2019 Optional Benefits Survey Results. You saw this information at the January Board Meeting. I've condensed and modified some of the results based on language from the legislation. From our results, 267 out of 304 SEBB Organizations submitted responses, which we felt was a substantial turnout rate. There were 717 optional benefits reported from these organizations, with 23 different benefit types, not including one-off benefits submitted. Those other benefits they fit into other categories.

Of the districts reporting, 19 SEBB Organizations reported at least one benefit that was likely to compete with either the SEB Board or Health Care Authority offerings. That breakdown was as follows: 11 districts offering a competing life insurance product, 8 offering a competing disability product, 8 offering an accidental death and dismemberment policy, 6 offering an FSA benefit, and 3 with DCAP.

In accordance with the legislation that passed, these conflicting benefits do not include the specific disease illness triggered, hospital confinement, or other fixed payment insurances, such as cancer insurance, that are not currently offered by the SEB Board or the Health Care Authority.

The intent of this presentation is to consult with the Board and get your perspective on the disposition of these competing benefits before we start to engage with the 19 identified districts based on the survey results.

Before going further, we wanted to go through this first level of review with you to discuss our proposed process for engaging with the districts. After we address these first five benefit types with the 19 organizations (life insurance, disability, AD&D, FSA, DCAP), we will share the outcome with the Board. Then the Board can let us know if you want us to take steps on other benefits identified that may be in conflict with the SEB Board or HCA offerings.

Dave Iseminger: HCA's proposal this first year, as we sort through the operational aspects of the process, is to focus on the more obvious conflicting benefits. That does not mean to imply any of the other optional benefits reported are okay. Based on what we learned in the survey, we would focus on the 19 organizations that reported clear, or likely, conflicts. That is not an endorsement or an implicit ratification that everything else is fine. As things are presented to us and it becomes more apparent, if there is an obvious conflict while we're going through this process, it would be addressed. As we get into the gray areas, HCA will reengage with the Board about an intent to move forward in addressing those potential conflicts in a phase two approach.

Cade Walker: Slide 7 – Plan for Engaging with School Districts. As noted earlier, we have 19 districts we need to contact to discuss with them their optional benefit offerings that we feel are likely in conflict with SEBB or Health Care Authority offering authority.

The first step, HCA will confirm the information provided last December is still accurate those benefits are being offered to their employees and work to resolve those issues. I suspect some districts reported benefits currently offered that will no longer be offered as of January 1, 2020.

We then anticipate getting the carriers' names and contact information, brokers, if necessary, who were assisting the districts with those benefits. We will begin the process of reaching a resolution.

It's anticipate the competing optional benefits will be resolved prior to the start of the next school year, whenever possible, appreciating that processes take time, filing with OIC. HCA will work to comply with the legislation as quickly as possible, while being reasonable with the substantial efforts to come into compliance.

Slide 8 – Communications. HCA will work to modify communications, refreshing the guidance disseminated Fall 2019, the most substantial communication regarding optional benefits. We will revise the training offered through our Outreach and Training Unit to school districts regarding optional benefits and the changes from House Bill 2458.

Dave Iseminger: There have been a variety of questions asked about the timeline for refreshing guidance. The effective date of the legislation is June 11. We may or may not have the FAQs and guidance on our website refreshed before then. We will work on that over the next four to eight weeks. The website has been flagged to indicate it's pending review of HB 2458 and should not be relied upon. At the same time, we will be contacting the 19 initial districts Cade highlighted in his presentation.

Cade Walker: In a soon to follow public release of proposed rules, WAC 182.30 incorporates HB 2458 requirements into our SEBB Program rules, which will be communicated as they go out for review to the external public.

Slide 9 – Action Items. HCA will reach out to the identified school districts to determine actions needed to resolve the competing benefits issues. The survey from last fall will be updated to take into consideration the new requirements and laws from HB 2458 in preparation for a Fall 2020 release.

Dave Iseminger: In the Appendix, new Section 3(2) states: "The Health Care Authority, in consultation with the School Employees' Benefits Board, shall review the optional benefits reported by school districts..." It goes on to talk about before beginning the process of engaging with the district. This is that presentation. HCA's recommendation to the Board is the agency proceed with discussing obvious conflicts with the identified 19 districts, and work toward resolution as we engage in the process. We're making our recommendation and consulting with you as a Board to see if you have any concerns about this first phased approach. Does the Board have questions or comments?

Pete Cutler: I want to confirm my silence is purposeful. I appreciate you clarifying this is the consultation you mentioned under Section 3(2) of the bill. So thanks.

Dave Iseminger: Thanks, Pete. Noted for the record, silence was purposeful. I was most curious whether you had any follow-up questions. So, thank you for that.

Pete Cutler: My pleasure.

Covid-19 Update

Dave Iseminger, Director, ERB Division and **Jean Bui**, Manager, ERB Division Portfolio Management and Monitoring Section.

Jean Bui: I will share some of the actions taken by the PEBB carriers in response to the COVID-19 state of emergency. HCA has continued to have weekly calls with the medical carriers on COVID-19 to get regular updates and provide them with information on actions HCA is proposing.

Kaiser Northwest has begun scheduling some of the more urgent elective surgical procedures. All of the health plans have implemented for COVID-19 treatments no member cost share. For Premera, this is for January 1 through October 1, for Kaiser Permanente Washington and Kaiser Permanente Northwest, April 1 through May 31, and Uniform Medical Plans, March 5 through June 30.

Dave Iseminger: You may be wondering how Kaiser Northwest is scheduling certain types of surgeries given the Governor's proclamation on elective surgeries in Washington. For clarification, Kaiser Northwest is in Southwest Washington and is primarily rooted in Portland, Oregon. There may be differences in the legal authority within Portland since it's under the jurisdiction of a different governor. Our members may be able to access some of those services if they are in Oregon.

Jean Bui: HCA has authorized Navia Benefits Solutions, our FSA/DCAP contractor, to extend the grace period for claims' submissions from the normal deadline of March 31, to May 15 for 2019 FSA and 2019 DCAP. Although the recent Federal Cares Act made some changes with the FSA, including authorization for certain over the counter items and menstrual products that are now claimable. HCA is currently analyzing other deadline extensions with our attorneys and vendors. HCA sought additional relief from the IRS for the 2019 and 2020 plan years for FSA, but there has been no response yet.

Premera has indicated antibody testing, billed in conjunction with a COVID test to diagnose, is covered with no cost share. However, the tests performed alone to diagnose COVID are not covered. Both Kaiser Northwest and Kaiser Washington have told us that COVID-19 serology testing test panels for influenza A & B, norovirus, and other coronaviruses, respiratory RSV, when billed in conjunction with a COVID-19 related diagnosis code, the testing will need to be determined to be medically necessary for coverage.

Uniform Medical Plan antibody testing, as the topic of testing is evolving rapidly and changing daily, they are currently pending claims for antibody tests. They are monitoring for new information from the FDA regarding validation of performance

thresholds, which will help direct the policy. UMP continues to provide updates as new information becomes available.

Dave Iseminger: Some of my comments bleed into the PEBB Program area but I still want to give you a sense of the overall picture. In addition to the COBRA resolutions this Board and your sister Board passed, we also presented to the PEB Board another eligibility piece of the puzzle they passed. It's a piece of eligibility in the PEBB Program unique to hiring first responders. Higher education institutions are also part of the PEBB Program. So within the PEBB Program and higher education, there are also several hospital systems. We also have the State Patrol, as well as the Department of Health.

The PEB Board passed a special eligibility resolution that allows access to benefits retroactive to the beginning of the month in which they first work: first responders, individuals working on COVID research, Department of Health public health officials, and a variety of other COVID response settings. We had at least 60 individuals in the PEBB Program hired under those special eligibility rules established by the PEB Board.

There was an incentive for retirees to come back to the workforce. HCA worked with the Department of Retirement Services to reduce some barriers individuals might face if they were interested in accessing employment again. DRS was able to suspend some of the prohibitions that might have limited retiree rehires. HCA has been working on implementing that if a retiree bounces back into PEBB or SEBB eligibility as an active employee, their medical plan accumulators don't reboot if they stay with the same carrier and are in a similar plan. That way the accumulator reboot issue would not be a hindrance to individuals who have significant experience coming back into the workforce during this time.

HCA also worked with Limeade, our SmartHealth vendor. We launched a platform similar to SmartHealth for about 200,000 Medicaid eligible individuals to provide additional opportunities to promote various services within the state, as well as overall mental and physical well-being.

I reported last time that HCA secured Zoom licenses to help facilitate providers throughout the state who don't have the infrastructure for telehealth services. We continue to push those efforts out and provided around 900 or so Zoom licenses.

Lou McDermott: Since the program started, we have over 700,000 minutes between providers and patients.

Dave Iseminger: We're actively pushing pieces regarding telehealth.

Looking at the overall financial impact of COVID-19, it feels like it's been going on for a long time, but from a claims experience standpoint, we're nowhere near run out of even the first month. At our next Board Meeting, Megan Atkinson will describe the big picture thinking about the overall financial impacts of COVID-19. HCA has done internal analysis working with our carriers on both the Medicaid and ERB side.

Lou McDermott: HCA, on the Medicaid side of the house, is working hard with CMS to make heads or tails of the relief money that's coming out of the federal government and how it affect providers in Washington. We are trying to make sure we keep our

behavioral health providers and the hospitals going. There's a lot of work between local government and the federal government to try and understand who's going to do what and when. How much money is going to flow? What strings are attached to that money? What's a gift? What's a loan? There's so much going on, it's endless.

Alison Poulsen: I wanted to emphasize how impressed our Medicaid providers have been here in Eastern Washington with how quickly the Health Care Authority has been working, and how much the support has really mattered. I know I've got a different hat on today, but I think it is worth acknowledging government working effectively and efficiently through this process, and we're really seeing it play out positively throughout the partners that Better Health Together works with.

Dave Iseminger: I appreciate that, Alison. I was also going to add that in the last 60 days, I've had more conversations with my counterparts in other states than I've had in the last two years. In addition to a lot of collaboration, as I've alluded to with DRS, with the Insurance Commissioner's Office, with the University of Washington and their hiring for response within their hospital systems, there have been robust collaborations also across state lines.

We know Washington was at the beginning of this, and we've fortunately become a little less of an epicenter nationally. But when I talk with my counterparts in other states, the conversations would always start with, "I assume Washington has already addressed something like this, because you're about two weeks ahead of us at everything." Things done here in our state have pollinated to other places.

After implementation of the retiree rehire topic with DRS, and after our special Board Meeting with the PEB Board, and your April Board Meeting, New Jersey did very similar things modeled off what we did in Washington. There have been many different impacts. Some of which we'll never know. There's a lot of collaboration even across state lines, with regards to how state employee benefits are working nationally.

The work being done in Washington, specifically the retiree rehire, as well as the COBRA extension, are things other states picked up based on what we did. Recently I believe within the last week, the Federal Department of Labor issued additional guidance related to COBRA, which coincidentally has a 60-day timeline after the end of a declared emergency. That should sound familiar to the resolutions you passed last week. At the federal level, some of their guidance also ties things to a two-month period after the emergency is over. Maybe somewhere somebody saw things being picked up in different states that started here in Washington, and it may have had an impact in the other Washington.

Eligibility and Enrollment Proposed Resolutions

Rob Parkman, Policy and Rules Coordinator, ERB Division. Slide 3 – SEB Board Resolutions. Today, I am introducing three resolutions. The first and second resolutions are amending past resolutions approved by the Board. The last resolution deals with error correction issues.

Slide 4 – Resolution SEBB 2020-04 Amending Resolution SEBB 2019-02 Anticipated Work Hours Eligibility Range Under RCW 41.05.740(6)(e). This resolution amends

Resolution SEBB 2019-02. Four stakeholders provided comments on this resolution, all in support as written. The resolution has no changes since it was presented on April 2.

Lou McDermott: Vote – Resolution SEBB 2020-04 - Amending Resolution SEBB 2019-02 Anticipated Work Hours Eligibility Range Under RCW 41.05.740(6)(e)

Resolved that, SEBB 2019-02 is amended to strike the words “no more” and insert the words “less” in the second bullet, so SEBB 2019-02 now reads:

A SEBB Organization engaging in local negotiations regarding eligibility for school employees under RCW 41.05.740(6)(e) shall negotiate within the range of anticipated to work hours described below:

- No less than 180 hours per school year; and
- Less than the threshold to meet the SEB Board’s eligibility establishment pursuant to RCW 41.05.740(6)(d).

Wayne Leonard moved and Alison Poulsen seconded a motion to adopt.

Voting to Approve: 8

Voting No: 0

Lou McDermott: Resolution SEBB 2020-04 passes.

Rob Parkman: Slide 5 – Resolution SEBB 2020-05 Amending Resolution SEBB 2018-12 Effective Date of Coverage for School Employees Eligible for the Employer Contribution. Four stakeholders provided comments on this resolution. Three stakeholders supported the resolution as written and one stakeholder requested we change it to make it clear it also applies to employees eligible under the (6)(e) eligibility, often referred to as “locally negotiated eligibility.” HCA recommends adding, “be eligible for the employer contribution toward SEBB Benefits for the school year that begins on September 1,” near the end of the resolution, to make it clear this resolution applies to both 6(e) and 6(d) populations.

HCA recommends removing “anticipated to work 630 hours in the coming school year” from the end of the resolution (Slide 22). The resolution as presented at the March meeting is included in the Appendix.

Because of the recommended changes to the resolution, we updated Example 2. We are rescinding the current example and providing a new version to align with the updated resolution.

Rob Parkman: Slide 8 – Effective Date of Coverage for School Employees Eligible for the Employer Contribution – Example #2 (Rescinded) HCA is requesting this example be rescinded and replaced with Example #2 (Updated) to show the 6(e) eligibility we're recommending be incorporated.

Slide 9 - Effective Date of Coverage for School Employees Eligible for the Employer Contribution – Example #2 (Updated). This updated example is our recommended replacement to Example #2 (Rescinded). The updated Example #2 would now read, “a school employee has earned the employer contribution as of August 21, 2020. Their SEBB Organization has not anticipated that this school employee will earn the employer contribution in the next school year so they are not SEBB benefits eligible. Is this school employee eligible for SEBB benefits in the next school year? No.”

If the Board approves the resolution, this would be Example #2 moving forward.

Lou McDermott: Vote – Resolution SEBB 2020-05 - Amending Resolution SEBB 2018-12 Effective Date of Coverage for School Employees Eligible for the Employer Contribution

Resolved that, SEBB 2018-12 is amended to add the following to the end of the resolution:

Except that, when a school employee establishes eligibility for the employer contribution towards SEBB benefits at any time in the month of August, SEBB benefits begin on September 1 only if the school employee is also determined to be eligible for the employer contribution toward SEBB benefits for the school year that begins on September 1.

SEBB 2018-12 now reads:

For September each year, a school employee who is establishing eligibility for the employer contribution towards SEBB benefits, and whose first day of work is on or after September 1 but not later than the first day of school for the current school year as established by the SEBB Organization, the effective date of coverage is the first day of work.

For a school employee who is establishing eligibility and whose first day of work is at any other time during the school year, the effective date of coverage is the first day of the month following the day the school employee establishes eligibility for the employer contribution toward SEBB benefits. Except that, when a school employee establishes eligibility for the employer contribution towards SEBB benefits at any time in the month of August, SEBB benefits begin September 1 only if the school employee is also determined to be eligible for the employer contribution toward SEBB benefits for the school year that begins on September 1.

Katy Henry moved and Wayne Leonard seconded a motion to adopt.

Peter Henry: I’m President of the Seattle Substitutes Association and I have a question about the 630 hours requirement to maintain benefits. I’m wondering what the SEB Board plans to do to modify the hourly requirement for this school year due to the fact that the schools are shut down and some folks were not permitted to work during the time schools have been shut down for a few months. I think we had about 115 days in Seattle. That means there’s 65 days left that we’re not eligible to work. I’m wondering what the Board is considering about this particular situation.

Dave Iseminger: Peter, I want make one piece clear. This resolution is about the effective date of coverage and not the underlying general eligibility piece. This resolution is about when coverage begins once eligibility is met, versus a separate question more related to what you're asking, which is how do you reach eligibility for benefits. That's the distinction, establishing eligibility versus the effective date of benefits.

The question you're asking, which I'll try to elucidate some more for the Board. Situations have come up where individuals, primarily in a substitute setting, where they were not designated by school districts as anticipated to work 630 hours this school year. The district then applied the two-year look-back rule the Board passed and still identified the individual as not anticipated to meet eligibility requirements. In those circumstances, the individual, if they actually worked 630 hours, would meet eligibility per another Board resolution passed sometime in the past two years. What has come up in this particular instance is, as schools shut down in light of the COVID epidemic, there were individuals who were actually getting near to working 630 hours, but had not actually worked 630 hours. With schools shut down, they no longer had hours to pick up. Although they thought they would possibly reach eligibility, because schools shut down, they were not able to reach that eligibility threshold.

I want the Board to know this question has been coming up the last 45 days due to COVID. I've asked Barb Scott and her team to look at eligibility to consider bringing something to the Board. Is there a point where we might recommend to the Board that if somebody reaches a certain percentage of the 630-hour requirement, there needs to be a relook at the employer anticipation to work estimate. We're in the preliminary stages to see if we can bring something to the Board to look at the eligibility framework on this point. In my opinion, it falls under a COVID response situation. Is that context helpful, Mr. Henry?

Peter Henry: Yes. Thanks very much. What's your name?

Dave Iseminger: David Iseminger. I'm the Director of the ERB Division.

Peter Henry: Good, so I can email you. Thank you.

Voting to Approve: 8

Voting No: 0

Lou McDermott: Resolution SEBB 2020-05 passes.

Rob Parkman: Slide 10 – Resolution SEBB 2020-06 Error Correction for Incorrect Information. We had feedback from five stakeholders and we are recommending some changes. Two stakeholders supported the resolution as written. Three stakeholders had concerns with this resolution. One wanted more clarity that the information had to come from the SEBB Benefits Administrator, not just anyone within a SEBB Organization. Based on this input, we are recommending that “SEBB Organization” be replaced with “Benefits Administrator” near the start of the resolution.

Another stakeholder requested clarity that HCA could allow for retroactive error corrections if HCA determined it to be appropriate action. Based on this input, HCA recommends adding “which may include retroactive enrollment,” near the end of the resolution. We used “enrollment” instead of “corrections” to match SEBB 2019-09, another error correction resolution approved by the Board during the meeting on May 16, 2019. The resolution presented at the April meeting is located in the Appendix.

Dave Iseminger: The language added at the end, some of the stakeholder feedback pointed out the phrase about retroactive enrollment had been in prior error correction resolutions. We did find that compelling feedback and populated it in this resolution the same way it was in other resolutions. In the original error correction resolution discussion, there was a robust discussion about that phrase. The way it was added here is the same way it was added in prior error correction resolutions per those discussions last year.

Lou McDermott: Vote – Resolution SEBB 2020-06 – Error Correction for Incorrect Information

Resolved that, if a Benefits Administrator or a contracted vendor provides incorrect advice regarding SEBB benefits to a school employee that they relied upon, the error will be corrected prospectively with enrollment in benefits effective the first day of the month following the date the error is identified. The Health Care Authority approves all error correction actions and determines if additional recourse, which may include retroactive enrollment, is warranted.

Terri House moved and Alison Poulsen seconded a motion to adopt.

Pete Cutler: I had some concerns with the first version of this resolution and I think these two changes based on feedback are both helpful. However, maybe it's just my paranoia with having dealt with challenges in both the HCA and DRS area. I think it would be helpful if the reference to a Benefits Administrator was more clear when referring to, “if a SEBB Organization Benefits Administrator provides incorrect advice.” There are a lot of folks who make money giving advice related to employee benefits of various types, who could give an employee bad information. The employee could claim that was why they made a certain decision and now want to change their mind. Anyway I thought that would be a helpful clarification. But, in either case, with or without the amendment, I support the resolution.

Dave Iseminger: Rob, is Benefits Administrator, in rules, a defined term already? And if so, what is that definition?

Rob Parkman: Based on the passage of this resolution, we have already leaned forward and created a definition of Benefits Administrator in the draft SEBB rules. In one minute I could tell you what that is.

Pete Cutler: That's fine for me. Just knowing it will be defined in rule is great. Thank you.

Rob Parkman: Yes. Based on the passage of this resolution, we will incorporate a definition of Benefits Administrator within the SEBB WAC rules.

Pete Cutler: Great. Thank you.

Lou McDermott: Rob, will the definition alleviate Pete's concerns?

Rob Parkman: I believe it will. It clearly states that it's the SEBB Organization Benefits Administrator that routinely is asked to provide that information. We've tried to narrow it down to the benefits group within the SEBB Organizations.

Lou McDermott: Pete, is that satisfactory?

Pete Cutler: Yes. That sounds great. Thank you.

Wayne Leonard: I had a question because I saw a couple comments where some people were concerned about liability. From the way it's written, is it just liability for correcting an error like a monthly premium or changing plans? Is there other liability? For example, in this first open enrollment period, questions came to my staff about, "I have this health condition." "I take this medication." "I'm getting cancer treatments in Seattle. Which plan should I enroll in?" We're not insurance experts and we're not capable of answering those kinds of questions. If someone can't get through, or can't get their answers from a carrier, they could act on our advice. I don't know what the liability is. Is it just switching plans? Is it just changing a monthly premium for one, because I saw some concerns about what the school district's liability might be? Do you have any answers on that?

Dave Iseminger: Wayne, I'll take a crack at answering that, and Rob, please correct anything I've misunderstood about error correction. In general, error correction could be a plan switch or enrolling them in benefits or disenrolling them in benefits. Typically, error correction comes up around an eligibility determination where somebody wasn't given a proper affirmative eligibility determination and was denied benefits. That's why you see, Wayne, this particular resolution is talking about prospective enrollment, and then discussion and identification of retro enrollment when warranted. In that instance, the liability is focused on the monthly premium amount.

The genesis of error correction in the PEBB Program was multi-year class action litigation about alleged improperly withheld or denied eligibility determinations. The whole genesis of error correction is really about whether people were properly enrolled in benefits at all. It's primarily about being enrolled or disenrolled in benefits. The liability being described here is primarily the monthly premium.

Rob Parkman: I would say these can come in different forms and each one gets evaluated separately. I know there were comments about this and there has to be an agreement that there was more information to go error correction. If there is not agreement between the employer and the employee, it would actually go the appeals route. It's really just defining which route to go - if there's agreement between the employer and employee.

Dave Iseminger: Thanks, Rob. Wayne, I'll just add that when you hear me say "primarily," you and your colleagues may ask what part isn't part of the premium? That very last part of this resolution, as an example, is if there is additional recourse warranted. There could be something agreed upon that is an identified appropriate recourse. I can't think of an instance where something has been approved that is not basically retro enrollment and premium-related. But if there is any sort of other recourse determined to be warranted that has some sort of financial impact that everybody agrees on, and that HCA then approves, that could be some liability. I don't have a specific example. Rob, do you know of any examples that are not premium based that have been authorized as part of error correction?

Rob Parkman: No, that is a lot of them. It could be they were told they couldn't enroll a dependent and then later it turned out they could. But that could also change the premium depending on the details.

Dave Iseminger: Sometimes the error has been about a dependent. So, it is significantly primarily the premium portion that is the liability, Wayne. Is that helpful?

Wayne Leonard: Yes, thank you.

Katy Hatfield: Dave, I can think of another example. Sometimes, for instance, if an employee did not enroll when they could have enrolled, and then they find out about it, maybe four months later, and there's a question about whether or not retroactive enrollment should be provided to the employee. The employee said, "You know, actually, I don't need retroactive enrollment because during that four months, I only went to the doctor one time and I paid the doctor \$240. If you pay me the \$240, that's good for me." Then the employer, the employee, and HCA could all agree that rather than retroactive enrollment, the employee will be given that small amount of money. That's just another example.

Dave Iseminger: Thanks, Katy.

Voting to Approve: 8
Voting No: 0

Lou McDermott: Resolution SEBB 2020-06 passes.

Rob Parkman: Slide 11 – Next Steps. On Slide 27 of the Appendix, we need to update Example #2 that supports SEBB 2020-08 that we briefed at the April 2 meeting. It was very rapidly determined to be incorrect and we would like to update it, as these examples are used by our Outreach and Training Unit, Communications Unit, and by SEBB Organizations. It's important they be correct.

Slide 24 – Example Clarification to SEBB 2020-08. This is information brought forward from the April 2 Board Meeting. Slide 25 is the actual draft resolution, SEBB 2020-08 COVID-19 Enrollment Timelines. There was no change to the proposed resolution.

Dave Iseminger: Rob, SEBB 2020-08 was passed by the Board at the last meeting. You're clarifying the example. You said it's a proposed resolution. It's actually enacted by the Board at this point.

Rob Parkman: I agree. Slide 30 is the approved resolution.

Slide 26 – COVID-19 Enrollment Timelines – Example #1. There is no change to this example.

Slide 27 – COVID-19 Enrollment Timelines – Example #2 (Rescinded). This example needs to be replaced. The last part of the example is incorrect. is where the problem was. So if hypothetically, a school employee's last day to enroll in continuation coverage was May 31, 2020, the state of emergency terminated on May 15, 2020, then the enrollment period for the subscriber would not change and the deadline would remain May 30, 2020. It's the last part of this example which is incorrect.

Slide 28 – COVID-19 Enrollment Timelines – Example #2 (Updated). This slide is the updated version. It reads: If (hypothetically), an employee's last day to enroll in SEBB continuation coverage is May 31, 2020, and the state of the emergency terminated on May 15, 2020, then the enrollment period for that subscriber will be extended to June 14, 2020 because the subscriber's continuation coverage enrollment period ended following the end of the emergency period, and before the end of the 30-day extension period.

Dave Iseminger: It was brought to our attention the math was off. We were supposed to do 30 days past May 15 and we had only done 16 days. People rely on the examples we provide in these slides more than you could possibly imagine. We're trying to correct the record and the math. It's not a substantive change from the policy proposal that was passed. It's the illustrative example that needed to be corrected. There's no action for the Board to take.

Rob Parkman: Slide 29 – COVID-19 Enrollment Timelines – Example #2, further clarifies this update. Bottom left starts with the Governor issuing his proclamation on February 29. Moving to the right, in our updated example, we have May 15 is the end of the emergency. Then we have May 31 as regular continuation coverage enrollment ended; and in this case, they would get additional days, all the way out to the end of June 14, 2020.

Slide 30 – Resolution SEBB 2020-08 COVID-19 Enrollment Timelines. This is the resolution approved at the April 2, 2020 SEB Board Meeting and there are no changes to this resolution.

Public Comment

Mr. Brown: I work as a certified substitute for Lake Washington and North Shore School districts. One of the concerns I had has already been addressed. But I personally have around 760 hours of substitute service credit for this year, but I don't qualify for benefits because of the "no stacking" rule. It's something I could have

worked with if I would have been notified at the beginning of the year that, even as a substitute, I had the opportunity to get benefits.

Historically, substitutes weren't given benefits. And the two districts, at least the two school districts that I worked for, never notified substitutes directly that they now had the opportunity to qualify for those benefits. I just happened to stumble across that at the end of the first semester. Because of that "no stacking" rule, I tried to adjust so that I could work for just one school district. And then COVID came along and I am not going to be able to qualify for benefits now.

I know this question was raised earlier, but I just want to bring up this "no stacking" rule and how it affects substitutes. When in my experience, most substitutes that are working as a substitute, as kind of their major income, work for more than one school district. At least in my example, the school districts did not notify substitutes that they now have the possibility of even being eligible to qualify and put a significant burden on me being able to qualify, in which the situation is right now. If COVID hadn't happened, I would have been qualifying this year, this week actually, for benefits. But now because of COVID, unless something is taken into account I won't qualify for this year, and I won't be able to qualify until at least February of next year.

I just wanted to bring that up, how much that ruling of the stacking affects substitute teachers, and also, how, if you think about it, it also limits the ability of substitute teachers to be effective in a substitute situation.

Peter Henry: Peter Henry again, president of the Seattle Substitutes Association. I have a question about your look-back period. Even if a substitute is working and meets the 630 hours requirement in a single school district, I'm not sure if this is a state expectation, or it's based on what the Benefits Administrator decides at a local school district, but if somebody's a full-time employee, and then becomes a substitute in the same type of job, the look-back period does not cover the time when they're a full-time employee. They need to be working two years as a substitute, 630 hours each year, in order to qualify for SEBB. I was wondering what the justification is for this? And you know, what are possible remedies? Thanks.

Dave Iseminger: Mr. Henry, we'll do some follow up with you to learn more about this particular situation. What often happens in our Board Meetings during public comment, somebody will raise a scenario, as you have, that's coming to different parts of our agency's attention often for the first time. We will go into research mode to understand more, and then we'll be able to do some follow up with you; and then, as appropriate, follow up with the Board as well. We will outreach to you to further understand your comments.

Preview of June 4, 2020 SEB Board Meeting

Dave Iseminger, Director, Employees and Retirees Benefits Division, provided an overview of potential agenda topics for the June 4, 2020 Board Meeting.

Next Meeting

June 4, 2020

9:00 a.m. – 1:00 p.m.

Lou McDermott: The SEB Board met in Executive Session Pursuant to RCW 42.30.110(1)(l), to consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026.

The SEB Board reconvened to adjourn the meeting.

Meeting adjourned at 10:37 a.m.