



# 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: May 16, 2024  
TIME: 4:04 PM

**WSR 24-11-098**

**Agency:** Health Care Authority, School Employees Benefits Board (SEBB) Admin #2024-02.03

- Original Notice**
- Supplemental Notice to WSR** \_\_\_\_\_
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 24-04-064 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) WAC 182-31-090 When is an enrollee eligible to continue school employees benefits board (SEBB) benefits under Consolidated Omnibus Budget Reconciliation Act (COBRA)?

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
June 25, 2024	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place	To attend the virtual public hearing, <a href="https://us02web.zoom.us/webinar/register/WN7IS7AVjqRpmWNbN_6M4B1Q">you must register in advance:</a>  <a href="https://us02web.zoom.us/webinar/register/WN7IS7AVjqRpmWNbN_6M4B1Q">https://us02web.zoom.us/webinar/register/WN7IS7AVjqRpmWNbN_6M4B1Q</a>  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 June 26, 2024 (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) May 17, 2024, 8:00 AM

By (date and time) June 25, 2024 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) June 14, 2024

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this proposal is to amend WAC 182-31-090 to support the School Employees Benefits Board (SEBB) Program:

**1. Implement School Employees Benefits (SEB) Board Policy Resolution:**

- Implemented Resolution SEBB 2024-06 continuation coverage when a term of board member of a school district ends

**2. Implement legislation:**

- Updated flexible spending arrangement (FSA) references to implement SB 5700
- Added WAC references that include school board members to implement SSB 5275

**3. Make other technical amendments:**

Clarified an enrollee's COBRA coverage will terminate when their Medicare coverage begins

**Reasons supporting proposal:** See purpose statement.

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160, Resolution SEBB 2024-06

**Statute being implemented:** RCW 41.05.021, 41.05.160, SB 5700, and SSB 5275

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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:**  Private.  Public.  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](#)?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

**Is a cost-benefit analysis required under [RCW 34.05.328](#)?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

**Regulatory Fairness Act 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):

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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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:

**(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. These rules do not apply to small businesses.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert 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:** May 16, 2024

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-31-090 When is an enrollee eligible to continue school employees benefits board (SEBB) benefits under Consolidated Omnibus Budget Reconciliation Act (COBRA)?**

(1) A school employee or a school employee's dependent who loses eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and who qualifies for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) may continue coverage for all or any combination of SEBB medical, dental, or vision.

(2) A school employee or a school employee's dependent who loses eligibility for continuation coverage described in WAC 182-31-100 or 182-31-120 but who has not used the maximum number of months allowed under COBRA may continue any combination of SEBB medical, dental, or vision for the remaining difference in months.

(3) A school board member and their dependents who are enrolled in SEBB medical, dental, and vision who lose eligibility when the school board member leaves office or their term ends may continue enrollment in SEBB medical, dental, or vision coverage for the maximum number of months allowed under COBRA.

(4) An enrollee may continue SEBB medical, dental, or vision under COBRA by self-paying the premium and applicable premium surcharges set by the health care authority (HCA):

(a) The election must be received by the SEBB program no later than 60 days from the date the enrollee's SEBB health plan coverage ended or from the postmark date on the election notice sent by the SEBB program, whichever is later;

(b) The first premium payment under COBRA coverage and applicable premium surcharges are due to the HCA no later than 45 days after the election period ends as described in (a) of this subsection, except as described in WAC 182-30-040 (1)(a). Following the enrollee's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-30-040 (1)(c);

(c) COBRA continuation coverage enrollees who voluntarily terminate their COBRA coverage will not be eligible to reenroll in COBRA coverage unless they regain eligibility as described in WAC 182-31-040 or 182-31-200. Those who request to terminate their COBRA coverage must do so in writing. COBRA coverage will end on the last day of the month in which the SEBB program receives the termination request or on the last day of the month specified in the COBRA enrollee's termination request, whichever is later. If the termination request is received on the first day of the month, COBRA coverage will end on the last day of the previous month;

(d) A school employee enrolled in a (~~medical~~) flexible spending arrangement (FSA) or limited purpose FSA and the school employee's dependents will have an opportunity to continue making contributions to their (~~medical~~) FSA or limited purpose FSA by electing COBRA if on the date of the qualifying event, as described under 42 U.S.C. Sec. 300bb-3, the school employee's (~~medical~~) FSA or limited purpose FSA has a greater amount in remaining benefits than remaining contribution payments for the current year. The election must be received by the contracted vendor no later than 60 days from the date the SEBB health plan coverage ended or from the postmark date on the election notice sent by the contracted vendor, whichever is later. The first premium

payment under COBRA coverage is due to the contracted vendor no later than 45 days after the election period ends as described above.

~~((4))~~ (5) A subscriber's state registered domestic partner and the state registered domestic partner's children may continue SEBB medical, dental, or vision on the same terms and conditions as spouses and other eligible dependents under COBRA as described under RCW 26.60.015.

~~((5))~~ (6) Medical, dental, and vision coverage under COBRA begin on the first day of the month following the day the COBRA enrollee loses eligibility for SEBB health plan coverage as described in WAC 182-31-050, 182-31-100, 182-31-120, ~~((or))~~ 182-31-140, or 182-31-200.

~~((6))~~ (7) An enrollee's COBRA coverage will terminate ~~((at the end of))~~ the last day of the month ~~((when they become eligible for medicare due to turning age 65 or older, or when enrolled in medicare due to a disability))~~ prior to the month their medicare coverage begins.