



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: June 16, 2020

TIME: 8:11 AM

WSR 20-13-074

**Agency:** Health Care Authority, Public Employees Benefits Board (PEBB) Admin #2020-01

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 20-09-117 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject)

**The following section in Chapter 182-08 WAC is revised:**

WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms?

**Hearing location(s):**

<b>Date:</b>	<b>Time:</b>	<b>Location:</b> (be specific)	<b>Comment:</b>
July 21, 2020	10:00 AM	As more counties move into phase 2 of the Governor's Safe Start plan, it is yet unknown whether by the date of this public hearing restrictions of meeting in public places will be eased. Therefore, this hearing is being held virtually only. This will not be an in-person hearing and there is not a physical location available.	Please register for HCA Public WAC Hearing - 7/21/2020 on Jul 21, 2020 10:00 AM PDT at: <a href="https://attendee.gotowebinar.com/register/6074456904428252685">https://attendee.gotowebinar.com/register/6074456904428252685</a>  After registering, you will receive a confirmation email containing information about joining the webinar.

**Date of intended adoption:** Not sooner than July 22, 2020 (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](mailto:arc@hca.wa.gov)

Fax: (360) 586-9727

Other:

By (date) July 21, 2020

**Assistance for persons with disabilities:**

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov)

Other:

By (date) July 10, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this proposal is to amend WAC 182-08-197 to support the Public Employees Benefits Board (PEBB) Program.

1. Implement PEBB Policy Resolution 2020-04 by amending default elections for an eligible employee who fails to timely elect coverage.
2. Make technical amendments to WAC 182-08-197:
  - To add a contracted vendor must receive required forms no later than thirty-one days after the employee becomes eligible for PEBB benefits;
  - To include an employee may enroll in supplemental death and dismemberment insurance with the contracted vendor at any time without evidence of insurability;
  - To clarify enrollment if a newly eligible employee's employing agency or the HCA's contracted vendor does not receive elections within thirty-one days;
  - To clarify rules related to an employee regains eligibility for the employer contribution toward PEBB benefits; and
  - To clarify PEBB benefits and supplemental coverage throughout the WAC section.

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

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160, PEBB Policy Resolution 2020-04

**Statute being implemented:** RCW 41.05.021, 41.05.160

**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:** N/A

**Name of proponent:** (person or organization) Health Care Authority

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Rob Parkman	P.O. Box 42716, Olympia WA 98504-2716	360-725-0883
Implementation:	Barbara Scott	P.O. Box 42716, Olympia WA 98504-2716	360-725-0830
Enforcement:	Scott Palafox	P.O. 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 Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If 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 analysis showing how costs were calculated. 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 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:** June 16, 2020

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**

A handwritten signature in black ink that reads "Wendy Barcus". The signature is written in a cursive style with a large, sweeping initial 'W'.

**WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, elect public employees benefits board (PEBB) benefits and complete required forms?** An employee who is newly eligible or who regains eligibility for the employer contribution toward public employees benefits board (PEBB) benefits enrolls as described in this section.

(1) When an employee is newly eligible for PEBB benefits:

(a) An employee must complete the required forms indicating their enrollment elections, including an election to waive PEBB medical provided the employee is eligible to waive PEBB medical and elects to waive as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency or contracted vendor. Their employing agency or contracted vendor must receive the forms no later than thirty-one days after the employee becomes eligible for PEBB benefits under WAC 182-12-114.

(i) An employee may enroll in supplemental life (~~((supplemental accidental death and dismemberment (AD&D),))~~) and supplemental long-term disability (LTD) insurance up to the guaranteed issue coverage amount without evidence of insurability if the required forms are returned to the employee's employing agency or contracted vendor as required. An employee may apply for enrollment in supplemental life (~~((supplemental AD&D,))~~) and supplemental LTD insurance over the guaranteed issue coverage amount at any time during the calendar year by submitting the required form to the contracted vendor for approval. An employee may enroll in supplemental accidental death and dismemberment (AD&D) insurance at anytime during the calendar year without evidence of insurability by submitting the required form to the contracted vendor.

(ii) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee will automatically enroll in the premium payment plan upon enrollment in PEBB medical allowing medical premiums to be taken on a pretax basis. To opt out of the premium payment plan, a new employee must complete the required form and return it to their state agency. The form must be received by their state agency no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(iii) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116), the employee may enroll in the state's medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) or both, except as limited by subsection (4) of this section. To enroll in these (~~((supplemental))~~) PEBB benefits, the employee must return the required form to their state agency. The form must be received by the state agency no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(b) If a newly eligible employee's employing agency, or the authority's contracted vendor in the case of life insurance and AD&D insurance, does not receive the employee's required forms indicating medical, dental, life insurance, AD&D insurance, and LTD insurance elections, and the employee's tobacco use status attestation within thirty-one days of the employee becoming eligible, their enrollment will be as follows for those elections not received within thirty-one days:

(i) ~~((Uniform Medical Plan Classic;))~~ A medical plan determined by the health care authority (HCA);

(ii) ~~((Uniform Dental Plan;))~~ A dental plan determined by the HCA;

(iii) Basic life insurance;

(iv) Basic AD&D insurance;

(v) Basic ~~((long-term disability))~~ LTD insurance;

(vi) Dependents will not be enrolled; and

(vii) A tobacco use premium surcharge will be incurred as described in WAC 182-08-185 (1)(b).

(2) The employer contribution toward PEBB ~~((insurance coverage))~~ benefits ends according to WAC 182-12-131. When an employee's employment ends, participation in the salary reduction plan ends.

(3) When an employee regains eligibility for the employer contribution toward PEBB ~~((insurance coverage))~~ benefits, including following a period of leave ~~((+))~~ described in WAC 182-12-133(1) ~~((and))~~, or after being between periods of leave as described in WAC 182-12-142 (1) and (2)(+), or 182-12-131 (3)(e), PEBB medical and dental begin on the first day of the month the employee is in pay status eight or more hours.

(a) ~~((The))~~ An employee must complete the required forms indicating their enrollment elections, including an election to waive PEBB medical if the employee chooses to waive PEBB medical as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency except as described in (d) of this subsection. Forms must be received by the employing agency, life insurance contracted vendor, or AD&D contracted vendor, if required, no later than thirty-one days after the employee regains eligibility, except as described in ~~((subsection (3)))~~ (a)(i) and (b) of this ((section)) subsection:

(i) An employee who self-paid for supplemental life insurance or supplemental AD&D coverage after losing eligibility will ~~((have))~~ maintain that level of coverage ~~((reinstated without evidence of insurability effective the first day of the month in which the employee is in pay status eight or more hours))~~ upon return;

(ii) An employee who was eligible to continue supplemental life or supplemental AD&D but discontinued that ~~((PEBB insurance))~~ supplemental coverage must submit evidence of insurability to the contracted vendor if they choose to reenroll when they regain eligibility for the employer contribution;

(iii) An employee who was eligible to continue supplemental LTD insurance but discontinued that ~~((PEBB insurance))~~ supplemental coverage must submit evidence of insurability for supplemental LTD insurance to the contracted vendor when they regain eligibility for the employer contribution.

(b) An employee in any of the following circumstances does not have to return a form indicating supplemental LTD insurance elections. Their supplemental LTD insurance will be automatically reinstated effective the first day of the month they are in pay status eight or more hours:

(i) The employee continued to self-pay for their supplemental LTD insurance after losing eligibility for the employer contribution;

(ii) The employee was not eligible to continue supplemental LTD insurance after losing eligibility for the employer contribution.

(c) If an employee's employing agency, or contracted vendor accepting forms directly, does not receive the required forms within thirty-one days of the employee regaining eligibility, the employee's enrollment ~~((in PEBB insurance coverage))~~ for those elections not re-

ceived will be as described in subsection (1)(b)(i) through (~~(iv) and (vi)~~) (vii) of this section, except as described in (a)(i) and (b) of this subsection.

(d) If an employee is eligible to participate in the salary reduction plan (see WAC 182-12-116) the employee may enroll in the medical FSA or DCAP or both, except as limited by subsection (4) of this section. To enroll in these (~~supplemental~~) PEBB benefits, the employee must return the required form to the contracted vendor or their state agency. The contracted vendor or employee's state agency must receive the form no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(4) If an employee who is eligible to participate in the salary reduction plan (see WAC 182-12-116) is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in DCAP or medical FSA until the beginning of the next plan year, unless the time between employments is thirty days or less and within the current plan year. The employee must notify their new state agency of the transfer by providing the new state agency's personnel, payroll, or benefits office the required form no later than thirty-one days after the employee's first day of work with the new state agency.

(5) An employee's PEBB (~~insurance coverage~~) benefits elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB (~~insurance coverage~~) benefits for one month or more. This includes movement of an employee between any entities described in WAC 182-12-111 and participating in PEBB benefits. PEBB (~~insurance coverage~~) benefits elections also remain the same when an employee has a break in employment that does not interrupt their employer contribution toward PEBB (~~insurance coverage~~) benefits.