



# 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: July 02, 2024

TIME: 3:44 PM

WSR 24-14-133

Agency: Health Care Authority, PEBB Admin #2024-01.06

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

- Preproposal Statement of Inquiry was filed as WSR 24-04-060 ; 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 is being amended:

182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 6, 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/WN_I_CtK0VXGQXCIK3UtUFFypw">you must register in advance:</a>  <a href="https://us02web.zoom.us/webinar/register/WN_I_CtK0VXGQXCIK3UtUFFypw">https://us02web.zoom.us/webinar/register/WN_I_CtK0VXGQXCIK3UtUFFypw</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 August 7, 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) July 3, 2024, 8:00 AM  
By (date and time) August 6, 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) July 26, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to amend WAC 182-12-265 to support the Public Employees Benefits Board (PEBB) Program:

1. Implement statutory changes:

- Included language that addresses continued enrollment for a survivor of a retiree when the retiree dies to implement HB 2481, Section 1, Chapter 185, Laws of 2024.
- Included language that clarifies eligibility for continued enrollment in PEBB health plan coverage to implement SHB 1804, Section 1, Chapter 312, Laws of 2023.

2. Implement Public Employees Benefits (PEB) Board policy resolutions:

- PEBB 2024-14 Non-Medicare retiree enrollment requirement
- PEBB 2024-19 UMP Classic Medicare enrollment

- PEBB 2024-20 UMP Classic Medicare enrollment during gap months
- PEBB 2024-21 Amending PEBB 2022-03 Medicare Advantage Prescription Drug plan enrollment during gap months
- PEBB 2024-26 PEBB retiree insurance coverage deferral – permanently live in a location outside of the United States

**3. Make technical amendments:**

- Removed language related to Washington State Educational Service Districts.
- Added WAC 182-12-232 references that describe when a survivor who loses eligibility may continue health plan enrollment.

**Reasons supporting proposal:** See purpose statement

**Statutory authority for adoption:** RCW 41.05.021, 41.05.065, 41.05.160, SHB 1804, Section 1, Chapter 312, Laws of 2023, HB 2481, Section 1, Chapter 185, Laws of 2024, PEBB Resolutions

**Statute being implemented:** RCW 41.05.021, 41.05.160, SHB 1804, Section 1, Chapter 312, Laws of 2023, HB 2481, Section 1, Chapter 185, Laws of 2024

**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:

- [RCW 34.05.310](#) (4)(b) (Internal government operations)
- [RCW 34.05.310](#) (4)(c) (Incorporation by reference)
- [RCW 34.05.310](#) (4)(d) (Correct or clarify language)
- [RCW 34.05.310](#) (4)(e) (Dictated by statute)
- [RCW 34.05.310](#) (4)(f) (Set or adjust fees)
- [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 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: July 2, 2024

Signature:



<b>Name:</b> Wendy Barcus	
<b>Title:</b> HCA Rules Coordinator	

**WAC 182-12-265 What options for continuing health plan enrollment are available to a surviving spouse, state registered domestic partner, or child, if an employee, a school employee, or a retiree dies?** The survivor of an eligible employee, an eligible school employee, or a retiree who meets the eligibility criteria and submits the required forms as described in subsection (1), (2), or (3) of this section is eligible to enroll or defer enrollment as a survivor under public employees benefits board (PEBB) retiree insurance coverage. If enrolling in PEBB retiree insurance coverage, the survivor's first premium payment and applicable premium surcharges are due to the health care authority (HCA) no later than 45 days after the election period ends as described in subsection (1), (2), or (3) of this section, except as described in WAC 182-08-180 (1)(a). Following the survivor's first premium payment, premiums and applicable premium surcharges must be paid as described in WAC 182-08-180 (1)(c).

(1) An employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage provided they immediately begin receiving a monthly retirement benefit from any state of Washington sponsored retirement system. To satisfy the requirement to immediately receive a monthly retirement benefit they must begin receiving monthly benefit payments no later than 120 days from the date of death of the employee. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the later of the date of the employee's death or the date the survivor's PEBB insurance coverage ends.

**Note:** Enrollment in the PEBB program's medicare advantage (MA) ~~(or)~~ plan, medicare advantage-prescription drug (MA-PD) plan, or the Uniform Medical Plan (UMP) Classic medicare plan may not be retroactive.  
(1) If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins.  
(2) If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in ~~((Uniform Medical Plan (UMP) Classic))~~ transitional coverage as designated by the director or designee during the gap month(s) prior to when the MA-PD coverage begins.  
(3) If a subscriber elects to enroll in the UMP Classic medicare plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in transitional UMP coverage during the gap month(s) prior to when the UMP Classic medicare plan begins.

(a) The employee's spouse or state registered domestic partner may continue health plan enrollment until death.  
(b) The employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

**Notes:** If a spouse, state registered domestic partner, or child of an eligible employee is not eligible for a monthly retirement benefit, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, they may continue health plan enrollment as described in WAC 182-12-146.  
Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of an employee of a PEBB participating employer group will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.  
Eligibility for the surviving spouse, surviving state registered domestic partner, or surviving child of an elected and full-time appointed official of the legislative and executive branches of state government is described in WAC 182-12-180.

(2) A retiree's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible retiree may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage as described in (a) through (d) of this subsection. ~~((The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death.))~~

(a) The retiree's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The retiree's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

(c) If a spouse, state registered domestic partner, or child of an eligible retiree is enrolled in a PEBB health plan at the time of the retiree's death, the survivors will be enrolled in the same PEBB health plan coverage they were enrolled in effective the first day of the month in which the retiree's death occurred. Eligible survivors may continue PEBB health plan coverage as described in (a) and (b) of this subsection. An eligible survivor may make changes to their PEBB health plan coverage or defer enrollment by submitting the required forms to the PEBB program. The required forms must be received no later than 60 days after the retiree's death. Changes in PEBB health plan coverage will be effective the first day of the month following the date of the retiree's death.

(d) If a spouse, state registered domestic partner, or child of an eligible retiree is not enrolled in a PEBB health plan at the time of the retiree's death, the survivor is eligible to enroll or defer enrollment as a survivor under PEBB retiree insurance coverage. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the retiree's death. For a survivor to enroll in a PEBB health plan who is not enrolled due to the retiree electing to defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 or 182-12-205 (3)(a) through (e), the survivor must also provide evidence of continuous enrollment in one or more qualifying coverages as described in WAC 182-12-205 (3)(a) through (e) from the most recent open enrollment for which the survivor was not enrolled in a PEBB medical plan prior to the retiree's death. A gap of 31 days or less is allowed between the date PEBB retiree insurance coverage was deferred and the start date of a qualifying coverage, and between each period of enrollment in qualifying coverages during the deferral period. If a retiree elected to defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-205 (3)(e), the survivor must provide proof of enrollment in medicare parts A and B; evidence of continuous enrollment in a qualified coverage is waived as described in WAC 182-12-205 (6)(e).

**Note:** Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of an employer group retiree will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.

(3) A school employee's spouse, state registered domestic partner, or child who loses eligibility due to the death of an eligible school employee may enroll or defer enrollment as a survivor under PEBB retiree insurance coverage at the time of the school employee's death, provided the employee died on or after October 1, 1993. The survivor must immediately begin receiving a retirement benefit allowance under chapter 41.32, 41.35 or 41.40 RCW. The required forms to enroll or defer enrollment must be received by the PEBB program no later than 60 days after the later of the date of the school employee's death or the date the survivor's (~~educational service district coverage, or~~) school employees benefits board (SEBB) insurance coverage ends.

**Note:** Enrollment in the PEBB program's MA ((or)) plan, MA-PD plan, or the UMP Classic medicare plan may not be retroactive.  
(1) If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when the MA coverage begins.  
(2) If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in ((UMP Classic)) transitional coverage as designated by the director or designee during the gap month(s) prior to when the MA-PD coverage begins.  
(3) If a subscriber elects to enroll in the UMP Classic medicare plan, and the required forms are received by the PEBB program after the date the PEBB retiree insurance coverage is to begin, the subscriber and their enrolled dependents will be enrolled in transitional UMP coverage during the gap month(s) prior to when the UMP Classic medicare plan begins.

(a) The school employee's spouse or state registered domestic partner may continue health plan enrollment until death.

(b) The school employee's children may continue health plan enrollment until they lose eligibility as described in WAC 182-12-260.

**Notes:** If a spouse, state registered domestic partner, or child of an eligible school employee is not eligible for a retirement benefit allowance, they are not eligible to enroll as a survivor under PEBB retiree insurance coverage. However, a spouse, state registered domestic partner, or child of an eligible school employee enrolled in SEBB insurance coverage may continue health plan enrollment as described in WAC 182-31-090. Eligibility for continued enrollment in PEBB retiree insurance coverage for the surviving spouse, surviving state registered domestic partner, or surviving child of a school employee of a SEBB participating employer group will cease at the end of the month in which the group's contract with the authority ends. Any survivor who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-232.

(4) If premiums and applicable premium surcharges received by the HCA are sufficient as described in WAC 182-08-180 (1)(d)(ii) to maintain PEBB health plan enrollment after the employee, school employee, or retiree's death, the PEBB program will consider the payment as notice of the survivor's intent to continue enrollment.

If the survivor's enrollment ended due to the death of the employee, school employee, or retiree, the PEBB program will reinstate the survivor's enrollment without a gap subject to payment of premium and applicable premium surcharges.

(5) If a survivor elects to enroll a dependent in PEBB health plan coverage, the dependent must be enrolled in the same PEBB medical and PEBB dental plan as the survivor.

**Exceptions:** (1) If a survivor selects a medicare supplement plan ((or)), a MA-PD plan, or the UMP Classic medicare plan, nonmedicare enrollees will be enrolled in the UMP Classic. If a survivor selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.  
(2) If a survivor selects a medicare supplement plan, MA-PD plan, or any other medicare plan, they may elect a PEBB vision plan available for any nonmedicare enrollees.

(6) A nonmedicare survivor must enroll in PEBB medical to be able to enroll in PEBB dental, in PEBB vision, or in both PEBB dental and PEBB vision. Any nonmedicare dependents they elect to enroll must be enrolled in the same PEBB medical, PEBB dental, and PEBB vision plan.

(7) In order to avoid duplication of group medical coverage, a survivor may defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 and 182-12-205.