

WSR 23-14-021

PERMANENT RULES

HEALTH CARE AUTHORITY

(School Employees Benefits Board)

[Admin #2023-02.03—Filed June 23, 2023, 9:37 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The purpose of adoption is to amend some of the existing rules to support the school employees benefits board (SEBB) program:

1. Implement SEBB policy resolution: Amended WAC 182-30-060 and 182-31-040 to add language related to Policy Resolution SEBB 2022-01 when school employees returning to work from active duty.

2. Make technical amendments: Amended WAC 182-30-060 to clarify the enrollment is effective when the school employee regained eligibility for basic life, basic accidental death and dismemberment (AD&D), employer-paid long-term disability (LTD) insurance, and employer-paid LTD insurance, supplement life and supplemental AD&D.

Citation of Rules Affected by this Order: Amending WAC 182-30-060 and 182-31-040.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Policy Resolution SEBB 2022-01.

Adopted under notice filed as WSR 23-10-073 on May 2, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 23, 2023.

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OTS-4553.1

AMENDATORY SECTION (Amending WSR 22-13-168, filed 6/21/22, effective 1/1/23)

WAC 182-30-060 How do school employees benefits board (SEBB) organizations and contracted vendors correct enrollment errors? (1) A school employees benefits board (SEBB) organization or contracted vendor that makes one or more of the following enrollment errors must correct the error as described in subsections (2) through (5) of this section.

(a) Failure to timely notify a school employee of their eligibility for SEBB benefits and the employer contribution as described in WAC 182-31-030;

(b) Failure to enroll a school employee or their dependents in SEBB benefits as elected by the school employee, if the election was timely;

(c) Failure to enroll a school employee and their dependents in SEBB benefits as described in WAC 182-30-080 (1)(b);

(d) Failure to accurately reflect a school employee's premium surcharge attestation on the school employee's account;

(e) Enrolling a school employee or their dependents in SEBB insurance coverage when they are not eligible as described in WAC 182-31-040 or 182-31-140 and it is clear there was no fraud or intentional misrepresentation by the school employee involved; or

(f) Providing incorrect information, via a benefits administrator or contracted vendor, regarding SEBB benefits to the school employee that they relied upon.

(2) The SEBB organization or the applicable contracted vendor must enroll the school employee and the school employee's dependents, as elected, or terminate enrollment in SEBB benefits as described in subsection (3) of this section, reconcile premium payments and applicable premium surcharges as described in subsection (4) of this section, and provide recourse as described in subsection (5) of this section.

(3) Enrollment or termination.

(a) SEBB medical, vision, and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (5) of this section;

Exception: When a school employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(b) Basic life, basic accidental death and dismemberment (AD&D), employer-paid long-term disability (LTD) insurance, and employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1)) enrollment is retroactive to the first day of the month following the day the school employee became newly eligible, or the first day of the month following the date the school employee regained eligibility, as described in WAC 182-30-080;

Exception: When a school employee who is called to active duty in the uniformed services under USERRA loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty.

(c) Supplemental life, supplemental AD&D, and employee-paid LTD insurance enrollment is retroactive to the first day of the month following the day the school employee became newly eligible if the school employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date on the school employee's application for this coverage). If a SEBB organization enrollment error occurred when the school employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-30-080(3):

(i) Supplemental life and supplemental AD&D is enrolled the first day of the month following the date the school employee regained eligibility, at the same level of coverage the school employee continued during the period of leave, without evidence of insurability.

(ii) If the school employee was eligible to continue supplemental life insurance and supplemental AD&D insurance during the period of leave but did not, the school employee must provide evidence of insurability and receive approval from the contracted vendor.

(iii) School employees may not continue employee-paid LTD insurance while on leave without pay as described in WAC 182-31-100. Employee-paid LTD insurance is reinstated the first day of the month following the date the school employee regains eligibility, to the level of coverage the school employee was enrolled in prior to the period of leave, without evidence of insurability.

(d) If the school employee is eligible and elects (or elected) to enroll in the medical flexible spending arrangement (FSA), limited purpose FSA, or dependent care assistance program (DCAP), enrollment is limited to 60 days prior to the date enrollment is processed, but not earlier than the current plan year. If a school employee was not enrolled in a medical FSA, limited purpose FSA, or DCAP as elected, the school employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount for the plan year by maintaining the per-pay period contribution in effect;

(e) If the school employee or their dependent was not eligible but still enrolled as described in subsection (1)(e) of this section, the employee's or their dependent's SEBB benefits will be terminated prospectively effective as of the last day of the month.

(4) Premium payments.

(a) The SEBB organization must remit to the authority the employer contribution and the school employee contribution for health plan premiums, applicable premium surcharges, basic life, basic AD&D, and employer-paid LTD insurance starting the date SEBB benefits begin as described in subsections (3) and (5)(a)(i) of this section. If a SEBB organization failed to notify a newly eligible school employee of their eligibility for SEBB benefits, the SEBB organization may only collect the school employee contribution for health plan premiums and applicable premium surcharges for coverage for the months after the school employee was notified.

(b) When a SEBB organization fails to correctly enroll the amount of employee-paid LTD insurance elected by the school employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the school employee is responsible for premiums for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premiums; and

(ii) When a premium refund is due to the school employee, the LTD insurance contracted vendor is responsible for premium refunds for the most recent 24 months of coverage. The SEBB organization is responsible for additional months of premium refunds after the 24 months of coverage and the overall refunding process to the school employee.

(c) When a SEBB organization mistakenly enrolls a school employee or their dependents as described in subsection (1)(e) of this section, premiums and any applicable premium surcharges will be refunded by the SEBB organization to the school employee without rescinding the insurance coverage.

(5) Recourse.

(a) School employee eligibility for SEBB benefits begins on the first day of the month following the date eligibility is established or the first day of work for school employees who start on or before the first day of school as described in WAC 182-31-040. Dependent eligibility is described in WAC 182-31-140, and dependent enrollment is described in WAC 182-31-150. When retroactive correction of an enrollment error is limited as described in subsection (3)(b), (c), and (d) of this section, the SEBB organization must work with the school em-

ployee, and receive approval from the authority, to implement retroactive SEBB benefits within the following parameters:

- (i) Retroactive enrollment in a SEBB insurance coverage;
 - (ii) Reimbursement of claims paid;
 - (iii) Reimbursement of amounts paid by the school employee or dependent for medical, vision, and dental premiums;
 - (iv) Reimbursement of amounts paid by the school employee for the premium surcharges;
 - (v) Other legal remedy received or offered; or
 - (vi) Other recourse, upon approval by the authority.
- (b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for noncovered services or in the case of an individual who is not eligible for SEBB benefits.

OTS-4560.1

AMENDATORY SECTION (Amending WSR 21-13-116, filed 6/21/21, effective 1/1/22)

WAC 182-31-040 How do school employees establish eligibility for the employer contribution toward school employees benefits board (SEBB) benefits and when do SEBB benefits begin? (1) Eligibility shall be determined solely by the criteria that most closely describes the school employee's work circumstance.

(2) All hours worked by an employee in their capacity as a school employee must be included in the calculation of hours for determining eligibility. All hours for which a school employee receives compensation from a school employees benefits board (SEBB) organization during an approved leave (e.g., sick leave, personal leave, bereavement leave) or a paid holiday must be included when determining how many hours a school employee is anticipated to work, or did work, in the school year.

(3) A school employee may establish eligibility for the employer contribution toward SEBB benefits by stacking of hours from multiple positions within one SEBB organization. A school employee may not gain eligibility by stacking of hours from multiple SEBB organizations.

(4) School employee eligibility criteria shall be determined in the following order:

(a) A school employee is eligible for the employer contribution toward SEBB benefits if they are anticipated to work at least (~~six hundred thirty~~) 630 hours per school year. The eligibility effective date shall be determined as follows:

(i) If the school employee's first day of work is on or after September 1st but not later than the first day of school for the current school year as established by the SEBB organization, they are eligible for the employer contribution on the first day of work; or

(ii) If the school employee's first day of work is at any other time during the school year, they are eligible for the employer contribution on that day.

(b) A school employee is presumed eligible for the employer contribution at the start of the school year, as described in (a) of this subsection, if they:

(i) Worked at least (~~six hundred thirty~~) 630 hours in each of the previous two school years; and

(ii) Are returning to the same type of position (teacher, paraeducator, food service worker, custodian, etc.) or combination of positions with the same SEBB organization.

Note: A SEBB organization rebuts this presumption by notifying the school employee, in writing, of the specific reasons why the school employee is not anticipated to work at least (~~six hundred thirty~~) 630 hours in the current school year and how to appeal the eligibility determination.

(c) A school employee who is not anticipated to work (~~six hundred thirty~~) 630 hours within the school year because of the time of year they are hired but is anticipated to work at least (~~six hundred thirty~~) 630 hours the next school year, establishes eligibility for the employer contribution toward SEBB benefits as of their first working day if they are:

(i) A nine to (~~ten~~) 10 month school employee anticipated to be compensated for at least (~~seventeen and one-half~~) 17.5 hours a week in six of the last eight weeks counting backwards from the week that contains the last day of school; or

(ii) A (~~twelve~~) 12 month school employee anticipated to be compensated for at least (~~seventeen and one-half~~) 17.5 hours a week in six of the last eight weeks counting backwards from the week that contains August 31st, the last day of the school year.

(d) A school employee who returns from approved leave without pay will maintain or establish eligibility for the employer contribution toward SEBB benefits if their work schedule, had it been in effect at the start of the school year, would have resulted in the school employee being anticipated to work the minimum hours to meet SEBB eligibility for the employer contribution in the school year. A school employee who regains eligibility under this subsection, establishes eligibility for the employer contribution toward SEBB benefits as of the date they returned from approved leave without pay.

(5) A school employee who is not anticipated to work at least (~~six hundred thirty~~) 630 hours in the school year as described in subsection (4)(a) of this section, may later be eligible for SEBB benefits when:

(a) Their work pattern is revised in such a way that they are now anticipated to work (~~six hundred thirty~~) 630 hours in the school year. The school employee becomes eligible for the employer contribution toward SEBB benefits on the date their work pattern is revised; or

(b) They actually worked (~~six hundred thirty~~) 630 hours in the school year. The school employee becomes eligible for the employer contribution toward SEBB benefits on the date they actually worked (~~six hundred thirty~~) 630 hours.

(6) If the school employee is not eligible under subsection (4) or (5) of this section, they may be eligible for SEBB benefits if their SEBB organization is engaging in local negotiations regarding eligibility for school employees as described in WAC 182-30-130.

(7) When SEBB benefits begin:

(a) For a school employee who establishes eligibility under subsection (4)(a)(i) of this section, medical, dental, vision, basic life insurance, basic accidental death and dismemberment (AD&D) insurance, employer-paid long-term disability (LTD) insurance, employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1)), and if eligible, benefits under the salary reduction plan begin on the first day of work for the new school year. Supplemental life insurance and supplemental AD&D insurance begin on the first day of the month following the date

the contracted vendor receives the required form or approves the enrollment.

(b) For a school employee who establishes eligibility under subsection (4)(a)(ii), (c), (d), or (5) of this section, medical, dental, vision, basic life insurance, basic AD&D insurance, employer-paid LTD insurance, employee-paid LTD insurance (unless the school employee declines the employee-paid LTD insurance as described in WAC 182-30-080(1)), and if eligible, benefits under the salary reduction plan begin on the first day of the month following the date the school employee becomes eligible for the employer contribution toward SEBB benefits. Supplemental life insurance and supplemental AD&D insurance begin on the first day of the month following the date the contracted vendor receives the required form or approves the enrollment.

Exceptions:

- (1) When a school employee establishes eligibility for the employer contribution toward SEBB benefits as described under subsection (4)(d) or (5) of this section, at any time in the month of August, SEBB benefits begin on September 1st 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 1st.
- (2) When a school employee who is called to active duty in the uniformed services under Uniformed Services Employment and Reemployment Rights Act (USERRA) loses eligibility for the employer contribution toward SEBB benefits, they regain eligibility for the employer contribution toward SEBB benefits the day they return from active duty. Employer-paid SEBB benefits will begin the first day of the month in which they return from active duty (see WAC 182-30-080(3)).