

# Second Chance Enrollment Window

---

## Background

School employees at the time of retirement can elect coverage under medical and dental plans offered to state and school retirees by the Public Employee Benefits Board. If the new retiree does not choose to participate in these plans at the time of retirement, then, with a few exceptions, the retiree loses the opportunity to join at a later date.

A sub-group of committee members and stakeholders worked with Health Care Authority staff during this interim to present ideas and proposals to the Select Committee on Pension Policy regarding health care benefit enhancements. **These issues were not developed or led by staff at the Office of the State Actuary.**

## Committee Activity

Presentations:

- July 17, 2007 - Full Committee
- September 18, 2007 - Full Committee
- October 16, 2007 - Executive Committee
- November 13, 2007 - Full Committee
- December 18, 2007 - Full Committee

Proposal:

- December 18, 2007 - Full Committee

## Recommendation to Legislature

Allow certain previously retired or disabled school employees an opportunity to enroll in medical or dental plans offered by the PEBB.

## Staff Contact

N/A

---

**BILL REQUEST - CODE REVISER'S OFFICE**

---

BILL REQ. #: Z-0964.1/08

ATTY/TYPIST: KK:rmh

BRIEF DESCRIPTION:Regulating health care coverage for retired or disabled school employees or state employees.

AN ACT Relating to health care coverage for retired or disabled school employees and state employees; adding a new section to chapter 41.05 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Under qualifications, terms, conditions, benefits, and continuity of care requirements set by the board, retired or disabled school employees and retired or disabled state employees who are receiving a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW as of January 1, 2001, and their dependents, may enroll in medical and dental plans under the authority, provided they apply no later than the end of the open enrollment period for the plan year beginning January 1, 2011.

(2) Retired or disabled school employees and retired or disabled state employees and their dependents shall be responsible for payment of rates developed by the authority, and shall include any amounts necessary for administration in accordance with this chapter. Premium rates charged to retired or disabled school employees and retired or disabled state employees and their dependents shall be based on the

experience of the community-rated risk pool established under RCW 41.05.022 and shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(3) The authority may establish rules to implement the enrollment opportunity under this section.

(4) Enrollment shall be processed on a first-come, first-enrolled basis, subject to an enrollment cap reflecting twenty-five percent of the eligible medicare retirees, as specified in the state operating budget.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2010.

# Select Committee on Pension Policy

November 13, 2007

## Briefing Paper Re: 2<sup>nd</sup> Chance” PEBB Enrollment Window

### Issue In Brief:

Advocates seek SCPP request legislation for the 2008 Session which provides a “2<sup>nd</sup> chance” Public Employees Benefits Board (PEBB) enrollment window for retired or disabled school and state employees who were receiving their pension benefit by 1/1/01 and missed their initial PEBB enrollment opportunity.

### Current Situation:

The comprehensive benefit design and the relatively affordable premium rates available to retirees enrolled in PEBB sponsored health insurance plans programs provide a valuable retirement benefit. In most cases, the value of PEBB sponsored health plans can not be matched by other insurance offerings. Over the years, advocates of K-12 and state retirees have pursued enactment of a “2<sup>nd</sup> chance” enrollment window for previously eligible (K-12 and state) retirees currently locked out of the PEBB program because they missed their one-time enrollment option. It was not until 1/1/01 that K-12 and state retirees obtained the ability to defer enrollment in PEBB programs.

The Select Committee on Pension Policy (SCPP) normally contains its considerations to pension issues. However, it was thought that the general principle of **adequacy of retirement benefits** and the specific **SCPP Goal regarding recovery of purchasing power for TRS/PERS 1 retirees** justified the SCPP’s attention to this issue. The SCPP adopted the “2<sup>nd</sup> chance” PEBB enrollment window as an issue to be analyzed by the PEBB retiree access study group.

### Accommodation of SCPP and HCA Concerns

In response to SCPP desires to contain the costs of a “2<sup>nd</sup> chance” PEBB enrollment window, advocates have made two major concessions:

- **The “2<sup>nd</sup> chance” window is provided only to those retired or disabled K-12 and state employees who were receiving a pension benefit as of 1/1/01, when the opportunity to defer PEBB retiree coverage began.** This reduces the number of potential new enrollees.
- **Eligibility for the “2<sup>nd</sup> chance” window is consistent with current WAC regarding continuity of care.<sup>i</sup>** Being consistent with PEBB policy serves as a protection against adverse risk. Additionally, this provision preserves flexibility in the PEBB’s administrative rulemaking authority to adjust continuity of care WAC in the future.

Advocates also made a major concession in order to accommodate HCA concerns regarding their ability to implement this proposal while maintaining quality service for current PEBB enrollees:

- **The “2<sup>nd</sup> chance” enrollment window is delayed until 2010.**

In developing this proposal advocates were mindful of the 1998 HCA Retiree Access Study - Guiding Principles (see below) regarding analysis of cost shifting, access, equitable treatment, and eligibility. For example:

- *taking measures to contain costs,*
- *equitably providing access to the “2<sup>nd</sup> chance window” to all of those who retired as of 1/1/01 and were previously eligible for enrollment in PEBB sponsored plans, and*
- *using WAC deferral eligibility criteria regarding proof of continuous coverage.*

During a 9/27/07 update by HCA Administrator, Steve Hill, before the House Appropriations Committee regarding health care related items in the budget, Mr. Hill focused on the benefits Washington State provides to its public and school employees and retirees. **Committee members were informed that keeping employees healthy saves costs and that quality employers of large size provide comprehensive health insurance plans with relatively low employee premiums. These comments were absolutely appreciated and could only have been improved upon by likewise referencing employers' treatment of retirees.**

## History:

The retiree health insurance program has evolved over the last 27 years. Beginning in 1970, state employees were permitted to continue their participation in health insurance upon retirement, on a self-pay basis. In 1977, language was added to statute (RCW 41.05 HCA Enabling Statute) requiring rates charged for all retirees to be developed from the same experience pool as active employees. However, rates for Medicare retirees were actuarially reduced to account for Medicare as a primary payer for Medicare-covered claims.<sup>ii</sup>

In 1993, during the state's health care reform movement, eligibility for retiree coverage was modified to include retirees from school districts and educational service districts (a.k.a. K-12 retirees). For a short period, the risk pools of K-12 and state retirees were maintained separately and the subsidies were different. In 1995, the risk pool and subsidies were clarified in statute: (1) all state active employees (and K-12 actives whose districts participate in PEBB programs) were combined with all non-Medicare eligible retirees into one risk pool, ensuring an implicit subsidy of the non-Medicare premium rates, and (2) all Medicare-eligible retirees were combined in a second risk pool, and an explicit premium subsidy was established.<sup>iii</sup> The HCA collects revenue to pay for the implicit subsidy and explicit subsidy from employers and active employees who participate in PEBB health insurance programs.<sup>iv</sup>

K-12 retirees received PEBB enrollment materials from the HCA and DRS via school district offices. However, for various reasons, during the first decade of K-12 retiree access to the PEBB, and especially during the initial K-12 enrollment period, a significant number of K-12 retirees failed to realize the opportunity to enroll in PEBB plans within established enrollment periods. Two frequently cited examples include retirees who received misinformation from their employers regarding the "one-time" nature of PEBB access, and retirees who had access to other health insurance coverage upon retirement, but now want to enroll in PEBB plans. These K-12 retirees, along with state retirees who similarly missed their 60-day post-retirement enrollment opportunity have thus been excluded from joining the PEBB system.

On January 1, 2001, WAC 182-12-205 rules adopted by the PEBB went into effect allowing retirees to defer PEBB coverage. To defer coverage a retiring school or state employee must submit a form to the HCA indicating their desire to defer coverage prior to the date coverage is to be deferred or within 60 days of the date they are eligible to apply for PEBB retiree benefits.<sup>v</sup> Those K-12 and state employees who retired prior to establishment of the PEBB deferral policy (1/1/01), and missed their one-time enrollment opportunity, continue to be forever excluded from access to PEBB health insurance plans.

### 1998 HCA Retiree Access Study - Guiding Principles<sup>vi</sup>

*In evaluating options, we will analyze the impacts – for each option – with respect to several main areas: cost shifting, access, equitable treatment, and eligibility.*

- *Minimize additional cost-shifting or impact on subscriber premiums paid by current PEBB active and retiree members.*
- *Seek the broadest access possible for retirees and former employees who need health insurance, within these other constraints.*
- *Accommodate different retirement plans in an equitable manner.*
- *Ensure that PEBB eligibility rules are logical and easy to communicate, so that former employees do not inadvertently terminate their options for coverage through misunderstandings or lack of awareness of these policies.*
- *Ensure that PEBB eligibility standards are consistent with other retirement personnel policies of the state.*

In 2005 legislation (HB 1297) was enacted which provides the Health Care Authority (HCA) statutory authority to participate in the Federal employer subsidy program established in section 1860D-22 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 P.L. 108-173 et seq. This makes it possible for the state to receive Federal subsidy funds as an employer who provides retired employee health coverage, which includes a pharmacy benefit which is substantially equivalent to that of Medicare part D. Any employer subsidy received from participation in the Federal employer subsidy is deposited into the Health Services Account (Fund 670).<sup>vii</sup> This subsidy is commonly referred to as the Centers for Medicare Services Retiree Drug Subsidy (CMS RDS). There is no direct expenditure offset for PEBB programs from the revenue realized by the state for the CMS RDS.

## **Bill Draft:**

A copy of Bill Request #: H-3771.1/08 is attached.

## **Fiscal Note & Related Information Attached:**

- 10/11/07 draft HCA fiscal note
- 10/29/07 e-mail from HCA re: CMS RDS

*Leslie Main*

**Legislative Coordinator**  
**Washington State School Retirees' Association**  
**360-413-5496**  
**leslie@wssra.org**

---

<sup>i</sup> WAC 182-12-200 (1)(a) re: Retiree Deferral of PEBB Enrollment

<sup>ii</sup> Retiree Access Study, PEBB 3/3/98, pg. 7

<sup>iii</sup> Retiree Access Study, PEBB 3/3/98, pg. 7

<sup>iv</sup> 10/11/07 draft HCA fiscal note

<sup>v</sup> PEBB internet web site re: WAC 182-12-200

<sup>vi</sup> Retiree Access Study, PEBB 3/3/98, pg. 46

<sup>vii</sup> HCA fiscal note re: HB 1287, 1/27/05