

# **PEBB Oregon Administrative Rules (OARs) Affected by Employer Shared Responsibility Filed as Temporary November 2014**

## **101-010-0005**

### **Definitions**

Unless the context indicates otherwise, as used in OAR chapter 101, divisions 1 through 60, the following definitions will apply:

(1) "ACA" means the Patient Protection and Affordable Care Act and regulations promulgated under the Act by any federal agencies as of [the effective date of the amended rule], including but not limited to Shared Responsibility for Employers Regarding Health Coverage, 79 Fed. Reg. 8544 (Feb. 12, 2014).

(2) "Actively at work" for medical and dental insurance coverage means an active eligible employee at work, in paid status and scheduled for work during the month. Optional plan policies or plan certificates contain "actively at work" criteria specific to the individual plan.

(3) "Active Participation" in reference to a Flexible Spending Account (FSA) means an eligible employee currently enrolled in the plan and who each month deposits the required dollar contribution in the account.

(4) "Administrative Period" means ACA period of no longer than 90 days beginning immediately following the end of a Standard Measurement Period and no longer than 90 days beginning immediately following the end of an Initial Measurement Period and ending immediately before the start of the associated Stability Period. During this time period the employer completes administrative tasks, for example but not limited to, calculating measurement period hours, eligibility determination, providing the employee with enrollment materials.

(5) "Affidavit of Dependency" means a notarized document that attests a dependent child meets the criteria for a dependent child under OAR 101-015-0011.

(6) "Affidavit of Domestic Partnership" means a notarized document that attests the eligible employee and one other individual meet the criteria in OAR 101-015-0026(2).

(7) "Agency" means a PEBB participating organization such as an individual state of Oregon public agency, semi-independent agency, and individual OUS University.

(8) "Benefit amount" means the amount of money paid by a PEBB participating organization for the purchase of core benefit plans on behalf of active eligible employees. PEBB does not determine the benefit amount.

(9) "Benefit eligible" means an employee who has met the eligibility requirements of (18) of this rule and is eligible to enroll in PEBB core benefits and optional plans.

(10) "CBIW" means Continuation of Benefits for Injured Workers.

(11) "Certificate of Registered Domestic Partnership" means the certificate issued by an Oregon county clerk to two individuals of the same sex after they file a Declaration of Domestic Partnership with the county clerk.

(12) "COBRA" means the federal Consolidated Omnibus Reconciliation Act of 1985.

(13) "Core Benefits" means specific benefit plans that a PEBB employer contributes a benefit amount premium cost for active eligible employees (e.g., medical, dental, vision, and employee basic term life coverage).

(14) "Commuter Accounts" means either a Transportation or Parking account as permitted under Commuter Benefits 26 CFR 1.132-9. This benefit allows benefit enrolled employees to

contribute to one or both accounts on a pretax basis to pay for work-related commuting expenses.

(15) "Dependent Care Flexible Spending Account" or "Dependent Care FSA" means the Dependent Care Assistance Program (DCAP) that PEBB has adopted in accordance with section 129 of the Internal Revenue Code.

(16) "Dependent child" means a child that satisfies the conditions of OAR 101-015-0011, as applicable.

(17) "Domestic partner" means an eligible employee's partner in a registered domestic partnership under Chapter 99 Oregon Laws 2007 or unmarried partner of the same or opposite sex that meets the requirements as outlined in OAR 101-015-0026(2).

(18) "Eligible employee" means an individual eligible to enroll in PEBB plan benefits by reason of his or her employment with a PEBB-participating employer, and includes:

(a) "Active eligible employee" means an employee of a PEBB participating employer, including a state official, in an exempt, unclassified, classified, or management service position who works at least half-time or in a position classified as job share and is expected to work at least 90 days. The term active eligible employee can apply to an employee in an initial or standard measurement period, or in a stability period, and includes:

(A) A permanent employee who is appointed to a permanent position (as defined by OAR 105-010-0000(40)) that is a benefit eligible position, including but not limited to a full time, half-time, job share, or seasonal position; or

(B) A temporary or impermanent worker who is not appointed to a permanent position and who is benefit eligible upon appointment due to work expectation or becomes benefit eligible through an initial measurement period and subsequent stability period.

(b) "Retired eligible employee" means a previously active eligible employee, who meets retiree eligibility as defined in OAR 101-050-0005. A retired eligible employee is eligible to self-pay for only the benefit plans established in division 50 of this chapter.

(c) "Other eligible employee" means an individual of a specific self-pay group as established by ORS 243.140 and 243.200. These groups are eligible only for medical or dental benefits as approved by PEBB.

(19) "Family member" means a spouse, domestic partner, or a qualifying child.

(20) "FMLA" means the federal Family Medical Leave Act.

(21) "FTE" means full time equivalent job position.

(22) "Grandchild Affidavit" means a notarized document that attests a grandchild of an eligible employee, spouse, or domestic partner meets the eligibility criteria for PEBB grandchild coverage as defined in OAR 101-015-0011(1)(B).

(23) "Half-time" means an eligible employee who works less than full time but at least:

(a) Eighty paid regular hours per month; or

(b) 0.5 FTE for unclassified OUS employees; or

(c) Eighty paid hours per month and is employed at a minimum of .5 FTE, for Oregon Judicial Department employees; or

(d) As defined by collective bargaining.

(24) "Health Flexible Spending Account" or "Health FSA" means the health flexible spending arrangement that PEBB has adopted in accordance with the Internal Revenue Code.

(25) "Imputed value" means a dollar amount established yearly for an insurance premium at fair market value. The IRS or the Oregon Department of Revenue may view the imputed value

as taxable income. The imputed value dollar amount is added to the eligible employee's taxable wages.

(26) "Ineligible individual" means an individual who does not meet the definition of an eligible employee, spouse, domestic partner, or dependent child as defined in PEBB administrative rules.

(27) "Job share" means two eligible employees sharing one full time equivalent position. Each eligible employee's percentage of the total position determines the benefit amount the employee receives. The monthly benefit percentage amount remains the same regardless of each individual's hours worked per month. Job share employees may not donate their portion of the benefit amount to the job share co-worker.

**Example:** John and Jill share one full time equivalent position. When they were hired into the position in July, John's percentage of the total position was 40 percent; Jill's percentage was 60 percent. John worked 70 percent of the available hours in September. John's benefit amount percentage for September remains at 40 percent. Jill's benefit amount percentage remains at 60 percent.

(28) "Measurement Period" means the required ACA look-back period during which hours are calculated to determine if an employee has averaged at least 30 hours per week. There are two types of measurement periods:

(a) "Standard Measurement Period" means the twelve (12) consecutive month period starting November 1 and ending October 31.

(b) "Initial Measurement Period" means the twelve (12) consecutive month period starting with the first day of the employee's employment.

(29) "Midyear plan change event" means an event that provides an eligible employee an exception to the general plan year irrevocability rule that applies to PEBB benefit plan elections. Permissible midyear events fall into three broad groups with allowable subgroups:

(a) Change in status (QSC),

(b) Cost or coverage changes; or

(c) Other laws or court orders.

(30) "OFLA" means the Oregon Family Leave Act.

(31) "OSPS" means the Oregon State Payroll System.

(32) "OUS" means the Oregon University System.

(33) "Open enrollment period" means an annual period chosen by PEBB when both active and other eligible employees and COBRA participants can make benefit plan changes or elections for the next plan year.

(34) "Optional plans" means, but is not limited to:

(a) Dependent life insurance;

(b) Employee, spouse, or domestic partner optional life insurance;

(c) Accidental Death & Dismemberment (AD&D) insurance;

(d) Short Term Disability insurance;

(e) Long Term Disability insurance;

(f) Flexible Spending Accounts (Health and Dependent Care); (g) Long Term Care insurance; and

(g) Commuter Accounts (Transportation and Parking)

(35) "Paid regular status" means in current payroll status, and receiving payment for work time. Paid regular status includes the use of vacation, sick, holiday, or personal leave accruals, compensatory time, or other employer approved status such as furlough.

(36) "Pebb.benefits" means the electronic benefit management system sponsored by PEBB. The system allows electronic enrollment and termination of an eligible individual's benefit plans, personal information updates, and the transmittal of data to plans, payroll centers, and third party administrators.

(37) "PEBB participating organization" means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(38) "Plan change period" means a period chosen by PEBB when retirees can make limited benefit plan changes.

(39) "Plan year" means a period of twelve consecutive months. PEBB's plan year is a calendar year.

(40) "Qualified status change" (QSC) means a change in family or work status that allows or requires limited mid-year changes of benefit plans consistent with the individual event.

(41) "Rescission" means a cancellation or discontinuance of coverage that has a retroactive effect. A cancellation or discontinuance of coverage that is prospective only, or one that is effective retroactively but is attributable to nonpayment of premiums or contributions, is not a rescission.

(42) "Reinstate" means to reactivate previous benefits and enrollments, if available, to an eligible employee returning to eligible status within a specific time frame. Reinstated enrollment does not include FSAs or Long Term Care.

(43) "Spouse" means an individual who is legally married. A marriage or a relationship recognized as a legal marriage between two individuals in Oregon, or another state or foreign country, will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create the marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

(44) "Stability Period" means the twelve (12) consecutive month period that immediately follows a Standard Measurement Period or an Initial Measurement Period, and, the Administrative Period associated with that Standard Measurement Period or Initial Measurement Period. An employee remains benefit eligible for the duration of a given stability period if the employee had an average of 30 hours of service per week, or 130 hours per month, for the duration of the measurement period immediately preceding the stability period.

(a) The stability period following a standard measurement period begins on January 1 of the year after the standard measurement period ends, and ends on December 31 of that year.

(b) The stability period following an initial measurement period begins on the first day of the second full calendar month after the date on which the initial measurement period ends.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 302, 659A.060 - 069, 743.600 - 602, 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01;

PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f.

& cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04;

PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2006(Temp), f. & cert. ef. 12-14-06 thru 6-

12-07; PEBB 1-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07; PEBB 2-2007, f. 9-28-07, cert.

ef. 10-1-07; PEBB 1-2008(Temp), f. & cert. ef. 2-4-08 thru 8-1-08; PEBB 2-2008, f. & cert. ef.

8-1-08; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; HLA 4-2010, f. & cert. ef. 5-18-10; PEBB 1-

2010(Temp), f. & cert. ef. 6-1-10 thru 11-28-10; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11;

PEBB 1-2013, f. & cert. ef. 9-24-13; PEBB 2-2014(Temp), f. & cert. ef. 6-9-14 thru 12-5-14

**101-015-0005**  
**Eligible Individuals**

(1) The following individuals are eligible to participate in PEBB-sponsored benefit plans:

(a) An eligible employee as defined in OAR 101-010-0005(18).

(b) A permanent position seasonal or intermittent employee who meets the following requirements:

(A) An individual hired for the first time if expected to work a 90-day continual period and works at least half-time or in a position classified as job share. The eligible employee must enroll within 30 days of his or her hire date or eligibility; or

(B) An individual hired for the first time working at least half-time or in a position classified as job share and who was not expected to work a 90-day or more continual period, and works more than a 90-day continual period. When the eligible employee submits enrollment forms to their agency, the employee is retro enrolled in benefits to the first day of the month following the individual's hire date; or

(C) A previously ineligible employee returning to work is eligible for benefit plans once they accumulate a total of 60 calendar days of employment within the current or immediately previous plan year. The 60 calendar days of employment need not be consecutive.

(c) An appointed temporary or impermanent employee who (i) as of the date of hire, is expected to work an average of 30 or more hours per week for a 90-day continual period, or (ii) has worked an average of 30 hours or more per week for an initial measurement period, and is in a subsequent benefit eligible stability period.

(d) A current spouse, domestic partner, or an eligible dependent child listed by the person who is eligible under subsection (1)(a), (b), (c), or (d) of this rule on the required enrollment form or the electronic equivalent (an ex-spouse or ex-domestic partner is not eligible for active, or retired, employee PEBB plan coverage).

(e) An appointed and elected official. Eligibility for benefit plans begins on the first day of the month following the date the official takes the oath of office.

(2) The eligible employee is responsible to maintain a valid PEBB enrollment for all eligible family members receiving coverage. See OAR 101-020-0025.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061-302, 659A.060-066, 743.600-602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01;

PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05;

PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11; Suspended by PEBB 1-2011(Temp), f. & cert. ef. 3-9-11 thru 8-4-11;

PEBB 2-2011(Temp), f. & cert. ef. 8-5-11 thru 1-31-12; Administrative correction 2-24-12

## 101-020-0002

### Plan Effective Dates, Employee Eligibility Continuation, and Plan Termination Dates

(1) Irrevocability Rule. Except as otherwise provided in OAR Chapter 101, all eligible employee benefit plan elections or mid-year plan changes are irrevocable for the plan year and must have a prospective effective date.

(2) PEBB's eligible employee benefits are in whole month increments for coverage and premium cost. There is no daily prorated coverage or monthly cost. PEBB's core benefits are part of an Internal Revenue Service Code 125 Cafeteria plan. The premium contribution taken from the employee's monthly pay must be in advance of the coverage. Employees work one month to earn coverage for the following month.

(3) The plan coverage effective date for newly eligible employees or for employees who receive approved qualified midyear changes is the first of the month following the later of, the agency's receipt of all appropriate forms as required or electronic enrollment, or the actual event date.

(a) The employee must be actively at work as specified in OAR 101-010-0005(1) for medical and dental coverage to become effective and as specified by optional plans in optional plan policies or certificates.

(b) When an optional plan requires a medical underwriting prior to coverage approval, coverage will be effective the first of the month following plan approval.

(4) Continuation of Coverage requirements. A benefit eligible employee continuing employment:

(a) Within a current stability period remains benefit eligible for that stability period regardless of the number of paid regular status hours accrued in the month.

(b) In a permanent benefit eligible position, but who is not within a current stability period, must accrue a minimum of 80 paid regular status hours in a month to qualify for benefit coverage in the following month. The exception to the 80 hours is a newly eligible employee during the initial month of eligibility and some individuals during their return to work month. If the employee accrues less than 80 paid regular status hours in a given month, the employee's benefits will end the last day of that month. The agency must send the employee a self-pay COBRA Enrollment Notice.

(5) Open enrollment elections are effective on the first day of the new plan year. When an optional plan requires a medical underwriting prior to coverage approval, coverage will be effective the first of the month following plan approval in the new plan year.

(6) Coverage effective date for Special Enrollment Rights. An eligible employee, family member, domestic partner, or domestic partner's dependent child losing other group medical coverage may enroll in PEBB plans within 30 days of the date of the loss of other group coverage. PEBB coverage will be effective from the date of the loss of the other group coverage.

**Example 1:** Joe loses coverage under his spouse's plan Oct. 15. Joe submits enrollment update forms Oct. 16. Joe's coverage effective date is October 1.

**Example 2:** Joe loses coverage under his spouse's plan October 31. Joe submits enrollment update forms November 16. Joe's coverage effective date is November 1.

(7) Active benefit eligible employee core benefit termination dates:

(a) When an employee terminates employment, benefit coverage for the employee and covered family members will end regardless of whether the employee is within a current stability period as follows:

(A) On the last day of the month, when the employee accrues less than 80 paid regular status hours during the month the employment terminates.

(B) On the last day of the following month, when the employee accrues more than 80 paid regular status hours during the month the employment terminates.

(b) When the employee is a temporary or impermanent worker who is benefit eligible for the current stability period and has no paid regular status hours for at least 13 weeks, or for a period at least four weeks and longer than the prior period during which the employee was working, the employee's benefits will end the last day of the month of that period. If the employee returns to work for the employer the employee must be considered a new employee.

(c) For employees of educational organizations, the time period applicable under this subsection is either 26 weeks or, if the employee's prior period of employment was less than 26 weeks, a period that is at least four weeks long and one week longer than the prior period of employment.

(d) When an employee is in an employer approved period of leave without pay, (e.g., FMLA, CBIW), or is in a benefit eligible current stability period a termination of coverage occurs when the employee's premium share is more than 30 days late. In order to terminate the coverage the agency:

(A) Must provide written notice to the employee that payment has not been received. The notice must be mailed to the employee at least 15 days before coverage terminates and the notice must advise the employee that coverage will be dropped on a specified date at least 15 days after the letter date, unless the payment is received by that specified date (30 days).

(B) When the employee has received the 15 day notice and payment is not received by the due date, coverage is terminated retroactively to the last day of the last month that employee premium was received.

(C) When coverage is terminated because of the employee's failure to pay the premium share timely and the employee later returns from the leave within 12 months, the agency must reinstate employee to the benefits equivalent to those the employee would have if the leave had not been taken and premium payments missed. See OAR 1010-20-0045 Returning to Work.

Example: John is in a benefit eligible current stability period. His August premium share was paid with his August 1 pay (July pays August). John starts a leave without pay on August 1. His current stability period status allows John to continue enrollment in his health benefits for September, but only if he pays his premium share to his agency on time. His agency requires the following month premium share payment by August 27. John's agency does not receive his payment, and the agency sends John a notice of non-payment by September 5. The notice provides a 15 day notice that payment must be made to the agency by September 28 or his enrollment will retroactively terminate to August 31 (the last day of the last month that premium was paid). John's payment is not received within 30 days. John's enrollment is terminated back to August 31 and he is sent a COBRA Election Notice. If the agency paid the premiums for September, reconciliation adjustments are made by PEBB and the agency. John returns to work in the middle of September. Upon John's return to work, his previous benefits will be reinstated for an October 1 effective date, and he does not need to work 80 hours in the month of return for benefits in the following month because he came back within his current stability

period status. (If John was not in a current benefit eligible stability status and was not in a leave without pay connected to a FMLA, CBIW, or other protected leave, he would need to work 80 hours in the month of return because of his leave without pay status was not within a protected leave class.)

(8) Self-pay individuals and retired employees' benefits terminate the last day of the last period for which the required premium contribution is paid.

(9) Optional plan coverages end according to the individual optional plan's policy or certificate directives. Refer to OAR 101-020-0060 and 101-020-0065 for FSA termination dates.

Stat. Auth.: ORS 243.061-302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707

Hist.: PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11

## 101-020-0005

### Newly Hired and Newly Eligible Employee

(1) A newly hired or a newly eligible active employee has 30 days from the date of hire or date of eligibility to enroll in PEBB core and optional benefit plans. Benefit plan elections are irrevocable for the plan year except as specified in OAR 101-020-0050. A newly hired benefit eligible employee: or newly eligible employee can enroll in benefit plans for the following month regardless of the number of hours worked in the month of eligibility. In the months following eligibility to continue to receive coverage a benefit eligible employee:

(a) Who is not in a current benefit eligible stability period must meet the requirement of a minimum of 80 hours in paid regular status in each month to receive benefits the following month.

(b) Who is in a current benefit eligible stability period is eligible for benefits the following month regardless of the number of paid regular status hours.

(c) Must be actively at work, as specified in OAR 101-010-0005(1), on the effective date of the insurance coverage.

**Example:** Sarah was hired and she enrolled in benefit plans on June 25. Sarah was in paid regular status on July 1; her coverage is effective July 1. Sarah will need to be in paid regular status for 80 hours in July in order to receive August coverage.

(d) Who enrolls in benefit plans and terminates employment before the effective date of insurance coverage will not receive active employee benefits or COBRA.

**Example 1:** Sarah was hired into a benefit eligible position and she enrolled in benefit plans on June 25. Sarah was in paid regular status on July 1; on July 2, she terminated employment. Sarah's coverage was effective July 1 and will remain in place through July 31. Sarah will not receive PEBB coverage in August, but will receive a COBRA notice.

**Example 2:** Ron was hired into a benefit eligible position and he enrolled in benefit plans on June 25. He terminated employment on June 30. Ron is not eligible for insurance coverage because he was not in paid regular status on July 1. He will not receive a COBRA notice because he did not receive active coverage.

(2) An employee that becomes eligible for benefits during or after the open enrollment period but before the start of the new plan year must receive the opportunity to complete open enrollment elections before the start of the plan year.

Stat. Auth.: ORS 243.061-302

Stats. Implemented: ORS 243.061-302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11

## **101-020-0012**

### **Working in Two or More Positions or for Two or More PEBB Participating Organizations**

(1) An individual working in two or more positions or for two or more PEBB participating organizations must work at least half-time or be in a benefit eligible current stability period to be eligible for any PEBB-sponsored benefit plans. The exception is an eligible employee in a job share position. An employee is not eligible for more benefits than what one full time employee is eligible for.

(2) The eligible employee must enroll in benefit plans at the PEBB participating organization with the highest percentage of the FTE position.

(a) When the employee has equal FTE percentages with more than one PEBB participating organization, the employee must enroll in benefit plans through the organization with the earlier appointment date.

(b) When the employee has equal FTE percentages and simultaneous dates of employment with two or more PEBB participating organizations, the employee may choose to enroll in benefit plans through one of the organizations.

Stat. Auth.: ORS 243.061-302

Stats. Implemented: ORS 243.061-302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; Renumbered from 101-040-0015, PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07

**101-020-0045**  
**Returning to Work**

(1) Refer to the following rules for an employee returning to paid regular status from the following leave status:

(a) Continuation of Benefits for Injured Workers (CBIW). See OAR 101-030-0010.

(b) Federal Family Medical Leave Act (FMLA). See OAR 101-030-0015.

(c) Oregon Family Leave Act (OFLA). See OAR 101-030-0020.

(d) Active Military Duty Leave (USERRA). See OAR 101-030-0022.

(2) A benefit eligible employee who is not in a current benefit eligible stability period and is returning to paid regular status must work at least half-time in the month of return to be eligible for core benefits and optional plan coverage the following month if returning from:

(a) A leave without pay that is not listed in subsection (1) of this rule and has a break in coverage; or

(b) A reduction in hours below benefit eligibility criteria, unless the employee is a benefit eligible employee in a job share position.

(3) Any benefit eligible employee returning to paid regular status within 30 days without a break in core coverage from a leave not listed in (1) of this rule or from an employment termination without a break in coverages will have all previous coverage reinstated. The employee cannot make benefit plan changes. A benefit eligible employee who:

(a) Is not in a current benefit eligible stability period, must work at least half-time in the month of return for benefits to be active the following month.

(b) Is in a current benefit eligible stability period will receive benefits in the month following the return to work regardless of the number of paid regular status hours in the month of return.

**Example 1:** Gary is employed by an agency and receives PEBB benefits. On May 20 Gary begins a leave without pay that does not provide for continued benefits throughout the leave. Gary worked more than 80 hours in May, and the agency correctly schedules his benefit coverage end date as June 30. Gary returns to paid regular status June 5, within 30 days of the leave start and with no break in core coverage. The agency will reinstate Gary's coverage with an effective date of July 1. If Gary is in a current benefit eligible stability period, his return to paid regular status will reinstate his coverage for July 1. If he is not in a current benefit eligible stability period, he must work 80 hours in June for his coverage continuation in July. Gary cannot make any election changes to his enrollments.

**Example 2:** Mark retires and terminates employment at his agency on June 2. Mark has not worked 80 hours in the month of June; therefore, his agency ends his coverage on June 30. Mark is rehired by an agency into a benefit eligible position, and his hire date is July 1. This is less than 30 days; however, a break in coverage occurred on June 30. Even if Mark is in a current benefit eligible stability period his benefits will not be reinstated until August 1.

(4) A temporary or impermanent position benefit eligible employee who is in a current benefit eligible stability period has no hours of service for either 13 weeks, or a period lasting at least four weeks and longer than the employee's prior employment, is considered a new employee upon return to regular pay status. Benefits are not reinstated.

(5) A permanent previously benefit eligible employee returning to a permanent benefit eligible position within 12 months of the prior core benefit termination date is not required to work at least half-time in the month of return to be eligible for benefits the following month. The agency

will reinstate the previous plan enrollments, if available, effective the first of the month following the employee's return to work. The reinstatement excludes Health and Dependent Care Flexible Spending Accounts, Commuter Accounts, and Long Term Care. The employee may make midyear plan changes to their enrollments within 30 days of the return to work date. This rule shall apply whether or not the employee is benefit eligible for the current stability period.

(6) Any previously active benefit eligible employee returning to paid regular status in a benefit eligible position after a termination of core benefits of 12 months or longer must enroll as a newly eligible employee.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061-302 & 659A.060-069

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 3-2009, f. 9-29-09 cert. ef. 10-1-09; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11

### **101-030-0010**

#### **Continuation of Group Health Benefit Coverage for Injured Workers (CBIW)**

- (1) The state is required by ORS 659A.060-069 to continue to pay the benefit amount for PEBB health benefit coverage in effect at the time an eligible employee has a work-related injury or illness. The benefit amount may continue for up to 12 consecutive months or until one of the events listed in ORS 659A.063 occurs, whichever occurs first. Health benefit coverage for this purpose includes the medical, dental, vision, and prescription drug coverage of the employee, family members, and domestic partner.
- (2) An eligible employee may continue coverage for life, short term and long -term disability, and accidental death and dismemberment insurance plans for up to 12 months if they self-pay the premiums to the agency.
- (3) Refer to OAR 101-20-0002(7)(d)for employee premium payment requirements.
- (4) When an employee returns to work within 12 months, they will have their previous enrollment for medical, dental, life, and disability insurance reinstated the first of the month following their return to work. The employee may make midyear plan changes within 30 days of the date they return to work.
- (5) An employee returning to work will not be reinstated in any pretax Flexible Spending Accounts. They may reenroll within 30 days of the date they return to work.
- (6) A previously benefit eligible employee returning to paid regular status immediately following CBIW is not required to work at least half-time in the month they return to be eligible for benefits the following month.
- (7) A COBRA qualifying event occurs at the end of the CBIW continuation period if the employee has not returned to paid regular status.

Stat. Auth.: ORS 243.061-302 & 659A.060-069

Stats. Implemented: ORS 243.061-302 & 659A.060-069

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04, PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11

### **101-030-0015**

#### **Continuation of Core Benefit Coverage for Employees Covered under the Federal Family Medical Leave Act (FMLA)**

- (1) The state will continue to pay the benefit amount for core benefits in effect at the time the eligible employee begins an approved FMLA leave.
- (2) An eligible employee may continue the following optional plans during the approved FMLA leave by self-paying premiums or contributions to the agency:
  - (a) Optional Life Insurances,
  - (b) Short Term and Long Term Disability,
  - (c) Accidental Death and Dismemberment Insurance, and,
  - (d) Healthcare Flexible Spending Account (FSA) — The total contribution amount for the complete expected leave duration must be prepaid prior to the start of the leave.
- (3) Refer to OAR 101-20-0002((7)(d)for employee premium payment requirements.

(4) An eligible employee on FMLA leave during open enrollment must make open enrollment benefit elections.

(5) An eligible employee returning to work or paid regular status the first day following the end of approved FMLA leave will have previous enrollments reinstated retroactive to the first day of the month the employee returns. The returning employee is not required to work at least half-time in the month they return to be eligible for benefits the following month.

(a) The employee must self-pay premiums for optional insurance plan reinstatements for the month in which they return.

(b) An employee returning to work will not be reinstated in Long Term Care and FSA unless the employee continued contributions to the Healthcare FSA while on approved FMLA leave. In this case, the employee will be reinstated in the Healthcare FSA.

(c) The employee may make midyear plan changes within 30 days of the date they return to work.

(6) An employee who does not return to work or to paid regular status the first work day immediately following the end of approved FMLA leave is considered the same as if returning from leave without pay. See OAR 101-020-0045(2).0045.

(7) A COBRA qualifying event occurs when the employee does not return to work and is not in paid regular status the first day after the qualified FMLA leave ends or the employee terminates employment.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061 - 302

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 2-2008, f. & cert. ef. 8-1-08; PEBB 7-2010, f. 12-10-10, cert. ef. 1-1-11

### **101-030-0020**

#### **Continuation of Group Medical and Dental Insurance Coverage for Employees Covered under the Oregon Family Leave Act (OFLA) - ORS 659A.150-186**

(1) A permanent, temporary or impermanent benefit eligible employee who qualifies for OFLA leave will continue benefits as outlined in OAR 101-020-0005 according to the their benefit eligible current stability status at the time the leave starts.

(2) When benefits continue, refer to OAR 101-20-0002(7)(d) for employee premium payment requirements.

(3) If active employee's PEBB insurance coverage ends, the employee will receive a COBRA election notice. See OAR 101-030-0005.

(4) See OAR 101-020-0045 Returning to Work.

Stat. Auth.: ORS 243.061-302 & 659A.150-186

Stats. Implemented: ORS 243.061-302 & 659A.150-186 |

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-0