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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 111
OREGON HEALTH AUTHORITY
OREGON EDUCATORS BENEFIT BOARD

FILED
09/30/2021 12:57 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: OEBB rules related to the administration of Senate Bill 551(2021)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem,OR 97301

Filed By:
April Kelly
Rules Coordinator

HEARING(S)

Auxilary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/21/2021
TIME: 1:00 PM
OFFICER: April Kelly
ADDRESS: Microsoft Teams - video/call in
Due to COVID-19, HSB is not open to the public and meetings are held remotely
Salem, OR 97301
SPECIAL INSTRUCTIONS:
Due to COVID-19, public meetings are being held remotely. To provide oral testimony during this hearing, please contact me at April.R.Kelly@state.or.us to receive the link for the Microsoft Teams video conference.

NEED FOR THE RULE(S):

Senate Bill 551 provides employee-only health plan coverage for part-time faculty at higher education institutions if they work at least half of a full-time equivalent employee. Coverage is limited to employee only and higher education institutions will cover 90 percent of premium costs. The benefits are primarily administered by community colleges and universities who have been selected as “Home Institutions” by eligible part-time faculty. Home Institutions will be responsible for ongoing determination of eligibility, collection and payment of premium costs and overall administration. The health care plans will be provided through PEBB and OEBB. This rule explains OEBB’s role in the administration of coverage through Senate Bill 551. OAR 111-070-0001 through 0070 are being repealed because the

HB 2557 program previously administered by OEBB is being replaced with the benefit program under SB 551.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Senate Bill 551 (2021 Regular Session), Chapter 583, 2021 Laws
Meeting recording from the PEBB Board meeting from Tuesday, September 21, 2021. The proposed rules were reviewed and approved by the PEBB Board to give staff authority to file the proposed rules as temporary and move these rules through the permanent rulemaking process. This can be found online at https://www.oregon.gov/oha/OEBB/Pages/OEBB-Board-Meetings.aspx

FISCAL AND ECONOMIC IMPACT:

While there may be a fiscal impact to universities and community colleges due to increased administration of this new benefit program, the proposed rule does not create a fiscal impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The proposed rule language is not expected to have any fiscal impact or cost to state agencies, local or tribal government, or members of the public.
(2) No anticipated effect on small businesses. Universities and community colleges employ more than 50 individuals.
(a) None identified.
(b) None identified.
(c) None identified.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Not applicable. Since small businesses are not expected to be impacted by the proposed rules, none were invited to participate in the development of the proposed rule.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
111-070-0001, 111-070-0005, 111-070-0015, 111-070-0020, 111-070-0030, 111-070-0040, 111-070-0050, 111-070-0060, 111-070-0070, 111-070-0075

REPEAL: 111-070-0001

RULE SUMMARY: Definitions for HB 2557 program.

CHANGES TO RULE:

~~111-070-0001~~
~~Definitions~~
~~For the purpose of this rule:¶~~
~~(1) "HB 2557 eligible member" means a part time faculty who is eligible for membership in the Public Employees Retirement System (PERS) by teaching or conducting research at a single institution of higher education or in aggregate at multiple public institutions of higher education during the prior year. "HB 2557 eligible member" does not mean or include a part time faculty member who has revoked PERS membership by opting to enroll in~~

another employer retirement plan, or a part time faculty member who is eligible for benefits through the Public Employees' Benefit Board (PEBB).¶
(2) "Eligible Dependent" means a Spouse, Domestic Partner or dependent child as defined in OAR 111-010-0015.¶
(3) "Overpayment" means the amount of a participating HB 2557 eligible member's monthly payment to OEBB that exceeded the amount due.¶
(4) "PERS" means the Oregon Public Employees Retirement System.¶
(5) "Plan Year" means the coverage period, usually 12 months long that is used for administration of a health benefits plan.¶
(6) "Public institution of higher education" means an Oregon community college or a state institution of higher education listed in ORS 352.002.¶
(7) "Underpayment" means a payment submitted by a participating HB 2557 eligible member that is less than the invoiced amount.¶
(8) "ACH Debit" for purposes of this OAR refers to a payment through an Automated Clearing House (ACH) credit or debit that initiates the movement of funds electronically from the HB 2557 eligible member's individual banking account within the United States to the OEBB Treasury account.
Statutory/Other Authority: ORS 243.864, 2009 OL Ch. 351 (HB 2557)
Statutes/Other Implemented: 2009 OL Ch. 351 (HB 2557)

REPEAL: 111-070-0005

RULE SUMMARY: Plan Selections for HB 2557 members.

CHANGES TO RULE:

~~111-070-0005~~
~~Plan Selections ¶~~

~~(1) HB 2557 eligible members will use the tiered rate structure and may elect to enroll in the following medical plans:¶~~
~~(a) Kaiser Permanente Medical Plan 3 (limited to OEBB members in the Kaiser service area),¶~~
~~(b) Moda Health Cedar Medical Plan,¶~~
~~(c) Moda Health Dogwood Medical Plan,¶~~
~~(d) Moda Health Evergreen Medical Plan.¶~~
~~(2) If enrolling in a Moda Health medical plan, the HB 2557 eligible member may elect to enroll in the PPO option or the Synergy or Summit network plan option if the HB 2557 member lives or works in an area where the Synergy or Summit network is available.~~
~~Statutory/Other Authority: ORS 243.860 - 243.886~~
~~Statutes/Other Implemented: ORS 243.864(1)(a)~~

REPEAL: 111-070-0015

RULE SUMMARY: Enrollment rules for HB 2557 program.

CHANGES TO RULE:

~~111-070-0015~~
~~Enrollment~~
~~(1) OEBB will directly provide HB 2557 eligible members notice of their eligibility, the open enrollment schedule and instructions for completing the required enrollment information prior to the beginning of the open enrollment period.¶~~
~~(2) HB 2557 eligible members and eligible dependents may enroll in a medical plan as specified in 111-070-0005 when one of the following occurs:¶~~
~~(a) During the annual open enrollment period (August 15 through September 25);¶~~
~~(A) Required enrollment information may be submitted by the member to the OEBB office prior to the beginning of the open enrollment period;¶~~
~~(B) All required enrollment information must be received by OEBB from the member by close of business on September 25;¶~~
~~(C) Required enrollment information not received from the member on or before the end of the open enrollment period will be considered a declination of coverage for the Plan Year;¶~~
~~(D) Coverage selected will be effective at the beginning of the new Plan Year (October 1) for HB 2557 eligible member and dependent(s) who have submitted the required enrollment information by the submission deadline; or¶~~
~~(b) Following confirmation that an individual not initially identified as eligible for benefits is eligible for benefits:¶~~
~~(A) All required enrollment information must be received from the member by OEBB by close of business on the date specified in the written eligibility notice sent to the HB 2557 eligible member. Failure to meet the due date will be considered a declination of coverage for the Plan Year;¶~~
~~(B) Coverage selected will be effective the first day of the month following eligibility confirmation and receipt of the required enrollment information.~~
~~Statutory/Other Authority: ORS 243.860 - 243.886~~
~~Statutes/Other Implemented: 243.864(1)(a)~~

REPEAL: 111-070-0020

RULE SUMMARY: Effective dates for HB 2557 program.

CHANGES TO RULE:

~~111-070-0020~~
~~Effective Date~~
~~(1) HB 2557 eligible members who are eligible for membership in PERS during a calendar year are eligible for medical benefits through OEBB for the following Plan Year.¶~~
~~(2) Eligibility will be determined annually within 30 days after the first quarter of the current calendar year.~~
~~Statutory/Other Authority: ORS 243.864, 2009 OL Ch. 351 (HB 2557)~~
~~Statutes/Other Implemented: 2009 OL Ch. 351 (HB 2557)~~

REPEAL: 111-070-0030

RULE SUMMARY: Terminations for HB 2557 program.

CHANGES TO RULE:

~~111-070-0030~~
~~Termination~~
~~(1) OEBB coverage will be terminated under the following circumstances:¶~~
~~(a) Premiums are not paid in full by the due date. Coverage is contingent upon the receipt of the full monthly premium payment. Coverage will be terminated on the last day of the month in which premiums were paid in full; or¶~~
~~(b) Upon notification and confirmation that an individual was not eligible for benefits due to adjustments that affect the individual's PERS membership. Coverage will be terminated on the last day of the month in which OEBB receives confirmation of ineligibility; or¶~~
~~(c) Upon notification and confirmation that an individual was not eligible for benefits due to not being a teaching or research faculty member during the calendar year upon which eligibility determination was based. Coverage will be terminated on the last day of the month in which OEBB receives confirmation of ineligibility.¶~~
~~(2) Eligibility for PERS membership is lost during the previous calendar year. Coverage will be terminated on the September 30th following the calendar year in which PERS membership is lost.¶~~
~~(3) Upon loss of OEBB coverage due to a Qualified Status Change (QSC), HB 2557 eligible members and their eligible dependents will have COBRA rights. Cancellation due to failure to make a premium payment does not constitute COBRA rights.~~
~~Statutory/Other Authority: ORS 243.860 - 243.886~~
~~Statutes/Other Implemented: ORS 243.864(1)(a)~~

REPEAL: 111-070-0040

RULE SUMMARY: Qualified Status Changes for HB 2557 program.

CHANGES TO RULE:

~~111-070-0040~~
~~Qualified Status Changes (QSCs)~~
~~(1) HB 2557 eligible members experiencing a change in family status the plan year, have 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-070-0040(2)(c), or results in a loss of eligibility, the eligible member has 60 calendar days after the event to make changes.¶~~
~~(a) The member must report the Qualified Status Change (QSC) to OEBB within the specified timeframe. Failure to report a QSC that would result in a removal of a spouse, domestic partner or child within the timeframe stated in 111-070-0040(1) may be considered intentional misrepresentation by OEBB and OEBB may retroactively terminate the individuals coverage back to the last day of the month in which the individual lost eligibility. If benefits are to be terminated retroactively, OEBB shall give the affected individual 30 days' notice of the termination and an opportunity to appeal before the retroactive termination takes effect.¶~~
~~(b) The member's failure to report timely a QSC that allows the addition of a spouse, domestic partner, or child means that the individual does not have coverage. The next opportunity the HB 2557 eligible member has to add their spouse, domestic partner, or child will be during open enrollment.¶~~
~~(2) The HB 2557 eligible member can only make those changes that are consistent with the event for themselves and eligible dependent(s).¶~~
~~(3) Qualified Status Changes which allow the member to make changes to his or her coverage are:¶~~
~~(a) Gaining a spouse by marriage or domestic partner by meeting domestic partner eligibility;¶~~
~~(b) Loss of a spouse or domestic partner by divorce, annulment, death or termination of domestic partnership,¶~~
~~(c) Gaining a child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership), 60 days from the event;¶~~
~~(d) Event by which dependent child satisfies eligibility requirements under OEBB plans;¶~~
~~(e) Event by which dependent ceases to satisfy eligibility requirements under OEBB plans;¶~~
~~(f) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Entitlement to Medicare or Medicaid, HIPAA or Children's Health Insurance Program (CHIP). Changes are determined by the applicable law or court order.¶~~
~~(4) Changes in cost or coverage do not constitute a Qualified Status Change. All changes resulting from a change in cost or coverage must be made during Open Enrollment.~~
~~Statutory/Other Authority: ORS 243.860 - 243.886~~
~~Statutes/Other Implemented: ORS 243.864(1)(a)~~

REPEAL: 111-070-0050

RULE SUMMARY: Premium payment for HB 2557 program.

CHANGES TO RULE:

~~111-070-0050~~
~~Premium Payment~~
~~(1) HB 2557 Eligible Member Payment Methods and Due Dates:¶~~
~~(a) HB 2557 eligible members will submit payment to OEBB for benefits through Direct Payment via ACH (ACH Debit).¶~~
~~(b) OEBB may grant an exception from the requirement in section (1) to pay by ACH Debit if the HB 2557 eligible member demonstrates their financial institution cannot accommodate an ACH transfer, or the member does not maintain an account at a financial institution.¶~~
~~(c) Notwithstanding section (2), the ACH Debit will occur on the 25th day of the month prior to the next month's health care coverage. All payments will be subject to this due date.¶~~
~~(2) If the HB 2557 member has a checking account, but submits a written letter declining to use the ACH Debit payment method, a $35.00 processing fee shall be applied to the HB 2557 member's monthly premium.¶~~
~~(3) HB 2557 Eligible Member Invoicing:¶~~
~~(a) OEBB will enroll a new HB 2557 eligible member after one of the following is completed:¶~~
~~(A) The required ACH Debit Authorization Form is received from the member, processed and set-up with their financial institution; or¶~~
~~(B) The Exception Request Form is received from the member, reviewed and approved;¶~~
~~(b) OEBB will mail payment reminders to HB 2557 eligible members to provide notification of the amount and date the ACH Debit will occur.¶~~
~~(c)(A) If the payment is not received in full by the 25th calendar day of the month, the member's coverage will be terminated on the last day of the month in which a full premium payment was received. All premium payments must be paid in full before payment to the carrier will be made.¶~~
~~(B) OEBB shall not be responsible for any unpaid portion of premiums for coverage and will terminate the HB 2557 eligible member and dependent coverage for non-payment or underpayment of premiums due.¶~~
~~(4) HB 2557 Eligible Member Overpayments:¶~~
~~(a) OEBB will mail notification of overpayments to the HB 2557 eligible member. This written notice shall inform the member of the amount overpaid and a description of the overpayment.¶~~
~~(b)(A) OEBB will automatically apply any overpayments to the next month's premium due. The member may complete a Request for Reimbursement form if a refund of an overpayment is desired. However, the member may be responsible for processing fees associated with refunds less than $100.¶~~
~~(B) Remaining balances on coverage that has ended will be refunded in full.¶~~
~~(5) HB 2557 Eligible Member Underpayments:¶~~
~~(a) Premiums that are not paid in full by the 25th calendar day of the month prior to the coverage effective month will result in the eligible member's and dependent's coverage being terminated at the end of the last month for which premiums were paid in full.¶~~
~~(b)(A) HB 2557 eligible members will be notified if their coverage was terminated due to the premium not being paid in full, including payments returned by the bank for Non-Sufficient Funds (NSF), closed bank accounts, and frozen accounts.¶~~
~~(B) A check or ACH transaction that is returned for NSF, closed bank account, or frozen account is considered non-payment of premiums.¶~~
~~(c) Coverage terminated due to non-payment or underpayment cannot be reinstated until a following Plan Year in which a person is deemed a HB 2557 eligible member.~~
~~Statutory/Other Authority: ORS 243.860 - 243.886~~
~~Statutes/Other Implemented: 243.864(1)(a)~~

REPEAL: 111-070-0060

RULE SUMMARY: Appeals and Administrative Reviews for HB 2557 program.

CHANGES TO RULE:

~~111-070-0060~~
~~Appeals and Administrative Reviews~~
~~HB 2557 eligible members have the right to use the OEBB Appeals and Administrative Review process.¶~~
~~(1) HB 2557 eligible members may appeal OEBB's eligibility decision.¶~~
~~(2) HB 2557 eligible members have the right to request a review of benefit and claim issues that are not resolved following the completion of the carrier appeal process. Administrative Review requests relating to denied benefits are limited to a determination of whether or not a benefit was intended to be covered under the current contract.~~
~~Statutory/Other Authority: ORS 243.864, 2009 OL Ch. 351 (HB 2557)~~
~~Statutes/Other Implemented: 2009 OL Ch. 351 (HB 2557)~~

REPEAL: 111-070-0070

RULE SUMMARY: Continuation of coverage for HB 2557 program.

CHANGES TO RULE:

~~111-070-0070~~
~~Continuation of Coverage~~
~~HB 2557 eligible members and dependents have COBRA rights consistent with 111-050-0001 and 111-070-0030.~~
~~Statutory/Other Authority: ORS 243.864, 2009 OL Ch. 351 (HB 2557)~~
~~Statutes/Other Implemented: 2009 OL Ch. 351 (HB 2557)~~

ADOPT: 111-070-0075

RULE SUMMARY: OAR 111-070-0075 explains the administration of the SB 551 benefit program by OEBB.

CHANGES TO RULE:

111-070-0075
Administration of SB 551 Program
(1) "SB 551 eligible member" who is deemed eligible to receive coverage through OEBB by an Oregon public institution of higher education based on the requirements of SB 551. "SB 551 eligible member" does not mean or include a part time faculty member who is eligible for benefits through the Public Employees Benefit Board (PEBB) or the Oregon Educators Benefit Board (OEBB).¶
(2) SB 551 eligible member may only enroll in employee-only medical/pharmacy coverage. SB 551 members may waive medical/pharmacy coverage but may not opt out of coverage and receive a monetary incentive.¶
(3) Persons currently eligible for OEBB or PEBB coverage as a subscriber or dependent are not SB 551 eligible. OEBB reserves the right to audit and retroactively terminate OEBB SB 551 coverage.¶
(4) If the SB 551 eligible member misses their enrollment period to enroll in coverage, they will have the ability to appeal to OEBB for enrollment.¶
(5) Coverage elected under this section is effective the entire plan year unless the SB 551 eligible member is terminated by OEBB or an Oregon institution of public education for failure to meet SB 551 eligibility or participation requirements.¶
(6) OEBB will not credit deductibles, out of pocket maximums for SB 551 members who transfer between an OEBB medical plan and PEBB medical plan.¶
(7) It shall be the sole responsibility of the Oregon public institution of higher education to determine eligibility for coverage.¶
(8) It shall be the sole responsibility of the part time faculty member to submit all information necessary to the home institution to make an eligibility determination for SB 551 coverage.¶
(9) The SB 551 eligible member is eligible to continue coverage through COBRA should their coverage end and they meet the criteria for COBRA continuation coverage as per OAR 111-050-0001.
Statutory/Other Authority: ORS 243.860 to ORS 243.886
Statutes/Other Implemented: ORS 243.864(1)(a), Chapter 583, 2021 Laws