OFFICE OF THE SECRETARY OF STATE
LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 111
OREGON HEALTH AUTHORITY
OREGON EDUCATORS BENEFIT BOARD

FILED
06/07/2024 3:39 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amendments to Division 40 are needed to update processes and align programs

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/31/2024 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.

CONTACT: April Kelly
503-507-2472
April.R.Kelly@oha.oregon.gov

500 Summer Street NE
Salem,OR 97301

Filed By:
April Kelly
Rules Coordinator

HEARING(S)

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

DATE: 07/24/2024
TIME: 10:00 AM
OFFICER: OEBB Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 1-971-277-2343
CONFERENCE ID: 444659440
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral testimony during this hearing, please contact April.R.Kelly@oha.oregon.gov to register and receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL link above. Alternatively, you may dial 1-971-277-2343 Phone Conference ID 444 659 440# for audio only.

NEED FOR THE RULE(S)

The rule amendments to Division 40 are needed for a variety of reasons. The Oregon Educators Benefit Board (OEBB) and the Public Employees' Benefit Board (PEBB) are working on developing and implementing a new benefit management system. In doing so, many rules and policies are being aligned between the two programs. These include, but are not limited to, removing the wash rule with coverage for newborns and newly adopted children, reporting time periods for mid-year Qualified Status Changes (QSC's), and grandchildren and eligibility for coverage. The OEBB Board approved the removal of a dental waiting period, therefore this Division needs to be amended to reflect the Board's decision. Additionally, there are some housekeeping amendments throughout this rule that will align OEBB's processes with the rule.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Meeting recording from the OEBB Board meeting from Tuesday, April 2, 2024. The Board approved removing the waiting period for dental coverage.

Meeting recording from the OEBB Board meeting from Tuesday, June 4, 2024. The proposed rule amendments were reviewed and approved by the OEBB Board, giving staff authority to file the proposed rule amendments and proceed with the permanent rulemaking process.

These can be found online at: https://www.oregon.gov/oha/OEBB/Pages/OEBB-Board-Meetings.aspx

---

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Oregon Health Authority (OHA) has committed to ending health inequities in Oregon with equity-centered health policy reforms strategies for the state, and to anti-racist and equity-centered policies and ideals as an organization. The adoption of these rule amendments were carefully reviewed for any affect they may have on racial equity in Oregon.

Identified populations: Veterans, those with lower social economic status, AA/AI/AN, children in foster care/adoption, newborns belonging to families who historically experience health inequities.

Removing waiting period to add newborn or adopted child:
Many children who experience foster care or are available for adoption experience high needs regarding social determinants of health and identify as members of populations that experience health inequities. Children of color and Native American children are placed into care at much a higher percentage those who are part of the dominant culture. Newborn children born into families who are members of our priority populations also can experience health inequities. Removal of any needed action to cover children from birth or adoption date improves their health outcomes and can alleviate inequities. There will then be no delay of needed health care or action needed to start health care from the moment the child enters the home or world. This rule change will have an impactful positive effect on health equity.

Removing 12 month waiting period for dental for Qualified Status Changes:
This rule change is good for all OEBB members but especially for those who may have delayed dental care due to experiencing lower economic status, lacked full time employment/coverage or experienced health inequities. This rule change will have a positive effect on health equity.

Allowing Veterans and those with Indian Health Coverage to opt out:
This rule change gives our Veterans and Native American members the option to carry coverage or not. Recognizing that both populations are priority populations, this will save money for those who are in lower economic status. Some who live in rural areas of Oregon may not be able to utilize OEBB benefits easily if chosen; this is also a savings of time, effort and likely frustration locating care and care that is socially concurrent. Overall, having a choice is better than not having a choice and this rule change can elevate health equity and grant autonomy and respect.

FISCAL AND ECONOMIC IMPACT:

There is no anticipated or identified fiscal or economic impact due to these proposed rule amendments. However, with the 12-month dental waiting period eliminated, more members may be inclined to enroll, especially those needing immediate dental care. This could initially increase the number of subscribers. With no dental waiting period, new subscribers might file claims for expensive procedures like implants or major restorative work right after enrolling. This could lead to higher costs for the dental plan provider, eventually impacting OEBB entities. There could potentially be an increased movement on and off the dental plans. Members may enroll, get their necessary dental work done, and then cancel their coverage. When this was reviewed OEBB's actuarial consulting firm for a fiscal/premium impact, it was

anticipated to be negligible.

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 amendments are not expected to have any fiscal impact or cost to state agencies, local governments, or members of the public.
(2) No anticipated effect on small businesses. These rules apply only to educational entities and local governments that offer benefit coverage through OEBB.
(2)(a) None identified.
(2)(b) No expected reporting, recordkeeping and administrative activities and cost to comply with these rule amendments.
(2)(c) No estimated cost identified.

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

Since small businesses are not expected to be impacted by the proposed rule amendments, none were invited to participate in the development o the proposed rule amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
111-040-0001, 111-040-0005, 111-040-0011, 111-040-0020, 111-040-0040, 111-040-0050

AMEND: 111-040-0001

RULE SUMMARY: This rule provides guidance as to when coverage is effective in different situations.

CHANGES TO RULE:

111-040-0001
Effective Dates ¶

(1) Effective Dates for Newly Eligible Employees. Initial benefit elections, unless otherwise specified in a collective bargaining agreement or documented Entity policy in effect on June 30, 2008, are effective on the later of:¶
(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form, or¶
(b)(A) The first of the month following the date of hire or the date of eligibility; with the following exception:¶
(B) The first of the month following approval of Evidence of Insurability for Optional Life Insurance above the guarantee issue amount, Long Term Disability, or Long Term Care insurance. The approval letters sent to the member are not official until entered into OEBB's benefit management system.¶
(2) Effective Dates for Qualified Status Changes. Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:¶
(a) Coverage for a newborn child is effective on the date of birth~~. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child~~ through the first 31 days of life without completing an enrollment form and submitting it to ~~b~~the eligible ~~for benefit coverage. If the newborn is born between the first and the fifteenth of the month, the eligible employee is billed for any applicable premium beginning the first month in which the baby is born. If the newborn is born between the sixteenth of the month and the end of the month, t~~employee's entity for processing. To continue coverage beyond the first 31 calendar days, the eligible employee must complete and submit an enrollment form to their entity with the intent of enrolling the newborn child in their coverage. The eligible employee ~~is billed for~~

~~any applicable premium beginning the first of the following month. With a newborn, the baby begins incurring their own expenses from their date of birth and since premiums are not pro-rated, this balances premiums~~has 60 calendar days from the newborn's date of birth to complete this action.¶
(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption~~. The eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and¶~~
~~(A) T~~ through the first 31 days without completing an enrollment form and submitting it to the eligible employee's entity for processing. To continue coverage beyond the first 31 calendar days, the eligible employee must ~~submit the adoption agreement with the~~complete and submit an enrollment form~~s~~ to the ~~E~~ir entity.~~¶~~
~~(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.¶~~
~~(c) Coverage for an eligible grandchild is as follows:¶~~
~~(A) If the legal guardianship is finalized within the first 60 days follow~~ with the intent of enrolling the newly adopted child ing the ~~birth of the grandchild, coverage will be effective retroactive to the date of the birth.¶~~
~~(B) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, the coverage will be effective the first of the month following the date the guardianship documents are finalized.~~ir coverage. The active eligible employee has 60 calendar days from the date the child is adopted or placed for adoption to complete this action; and¶
(~~C~~A) ~~If the legal guardianship is finalized 61 to 180 days from the date of birth of the grandchild, and the effective date of legal guardianship is retroactive to the grandchild's date of birth, coverage will be effective retroactive to the date of birth. If legal guardianship is finalized after 180 days coverage will be effective the first of the month following the date the guardianship documents are finalized~~The eligible employee must submit the adoption or placement agreement with the enrollment forms to the Entity.¶
(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.¶
(~~d~~c) The first of the month following approval of Evidence of Insurability for Optional Spouse/Domestic Partner Life insurance above the guaranteed issue amount, if applicable, or Long Term Care Insurance.¶
(3) Elections made during an open enrollment period are effective on the first day of the new plan year~~. There will be a 12-month waiting period for services other than preventive dental exams and cleanings for coverage added during the open enrollment period if enrolling in a dental plan in which the employee and/or dependents were previously eligible.~~
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)

AMEND: 111-040-0005

RULE SUMMARY: This rule prescribes when coverage termination dates occur in specific situations.

CHANGES TO RULE:

111-040-0005
Termination Dates ¶

(1) Effective October 1, 2011, ~~if an active eligible employee requests a termination of coverage for them self, a spouse, a domestic partner, or a child,~~ coverage ends on the last day of the month that eligibility is lost. Requests for coverage termination must be made consistent with a Qualified Status Change as defined by OAR 111-040-0040.¶
(2) Retroactive termination of coverage may be made in the event of a delay in the Entities' reconciliation process and shall generally be within 14 days of receiving notification from the employee of the Qualified Status Change event and requested benefit changes.¶
(3) Effective October 1, 2011, benefit coverage termination that is considered by OEBB to be intentional misrepresentation may be rescinded in compliance with the law. If this occurs, OEBB shall give the affected individual 30 days' notice of the rescission of benefit coverage and an opportunity to appeal before the rescission takes effect.¶
(4) Benefit coverage for active eligible employees ends on the last day of the month that they retire, unless otherwise determined in a collective bargaining agreement or documented Entity policy in effect on June 30, 2008. Benefit coverage may be continued based on the requirements and limitations in OARs 111-050-0001 through 111-050-0050.
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)

AMEND: 111-040-0011

RULE SUMMARY: This rule prescribes what happens in the event that an OEBB member returns to benefit eligible status within a certain timeframe.

CHANGES TO RULE:

111-040-0011
Returning to Benefit Eligible Status ¶

(1) A former Eligible Employee returning to benefit-eligible status with the same Entity following an unpaid leave of absence, or termination of employment, or returning from a strike, lock-out, layoff, within six months of the date eligibility was lost will have their benefit plans and coverages reinstated.¶
(a) All coverages and plans previously enrolled in will be effective the first of the month following the date eligibility is regained, unless otherwise stipulated in a collective bargaining agreement or documented Entity policy in effect on or before May 1, 2013.¶
(b) ~~The 12-month late enrollment waiting period for dental and/or vision coverage will only apply if it was in effect at the time coverage was initially lost.¶~~
~~(c)~~ Plan changes or changes to covered dependents may only be made if:¶
(A) A Qualified Status Change occurred during the period of ineligibility, consistent with OAR 111-040-0040, and requested within 31 days of returning to benefit-eligible status, or¶
(B) Benefits are being reinstated in a new plan year from which benefits were initially lost.¶
(2) If reinstatement occurs within the same plan year, medical, dental and vision coverage will be reinstated at the same level as was in effect immediately prior to the loss of eligibility. (i.e., dental incentive levels, amounts applied toward deductibles, annual maximum out-of-pockets and benefit maximums~~, and benefits beyond routine and basic dental and vision~~), if applicable.¶
(3) The Uniformed Services Employment and Reemployment Rights Act (USERRA). USERRA gives an employee and previously covered dependents the right to reinstate coverage upon returning to employment with the Entity in a benefit eligible position with no waiting period.
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)

AMEND: 111-040-0020

RULE SUMMARY: This rule explains open enrollment and what can be done during this time period.

CHANGES TO RULE:

111-040-0020
Open Enrollment ¶

(1) Eligible employees may make benefit plan changes or elections and add or remove eligible dependents during open enrollment periods as designated by OEBB.¶
(2) Coverage under OEBB-sponsored benefits plans for an eligible individual added during open enrollment begins on the first day of the new plan year. ~~Dental coverage added during the open enrollment period will be limited to preventive dental exams and cleanings for the first 12 months of coverage, if the eligible individual and/or their eligible dependents were eligible for the coverage directly prior to the beginning of the new plan year.~~ Coverage for an individual terminated during open enrollment ends on the last day of the month of the current plan year.¶
(3) Benefit plan elections are irrevocable for the new plan year except as specified in OAR 111-040-0040.¶
(4) If optional life insurance is requested beyond the guarantee issued amount, Evidence of Insurability must be submitted to the OEBB life insurance carrier(s) by December 31.
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)

AMEND: 111-040-0040

RULE SUMMARY: Qualified Status Change (QSC) section prescribes mid-year events that occur during the plan year and allows OEBB members to make changes consistent with those specified events.

CHANGES TO RULE:

111-040-0040
Qualified Status Changes (QSCs) ¶

(1) An Eligible Employee experiencing a change in family or work status as noted below after an annual open enrollment, or anytime during the plan year, has 31 calendar days beginning on the date of the event to make allowable changes. If the event is gaining a child, as defined by 111-040-0040(4)(c), or results in a loss of eligibility, the Eligible Employee has 60 calendar days after the event to make allowable changes.¶
(2) An Eligible Employee ~~can~~may only make changes that are consistent with the event for them~~-self~~ves and/or dependents.¶
(3) An Eligible Employee must report the Qualified Status Change (QSC) to the ~~employee's~~ir Entity within the specified timeframe. Failure to report a QSC that ~~will~~ results in removal of a spouse, domestic partner, or child within the timeframe stated in OAR 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may rescind the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the Qualified Status Change (QSC) matrix for details on what changes ~~can~~may occur with each event.¶
(4) Qualified Status Changes which allow an employee 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 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),¶
(d) Change in employee group which affects plan option availability;¶
(e) Spouse, domestic partner or child starts new employment or other change in employment status which affects eligibility for benefits;¶
(f) Spouse, domestic partner's or child's employment ends or other change in employment status resulting in a loss of eligibility for benefits under their employer's plan;¶
(g) Event by which a child satisfies eligibility requirements under OEBB plans;¶
(h) Event by which a child ceases to satisfy eligibility requirements under OEBB plans;¶
(i) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO or limited network service area plan);¶
(j) Significant changes in cost of the Eligible Employee's or Early Retiree's current plan and tier level that result in a negative or positive impact of 10 percent or more to:¶
(A) The amount an Eligible Employee or Early Retiree must contribute toward benefits.¶
(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.¶
(k) Different Open Enrollment/Plan Year under a spouse/domestic partner's employer plan.¶
(l) 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.¶
(5) Changes in coverage~~, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits,~~ do not constitute a Qualified Status Change.¶
(6) The following applies to the Long Term Care benefit plans only:¶
(a) Cancel the plan at any time without a QSC event.¶
(b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan or change in plans with a QSC is subject to a medical evidence review by the LTC carrier.¶
(7) If optional life insurance is requested beyond the guarantee issued amount, Evidence of Insurability must be submitted to the OEBB life insurance carrier(s) within 90 calendar days of the QSC event.
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)

AMEND: 111-040-0050

RULE SUMMARY: This section prescribes how and OEBB member may opt out of coverage or decline coverage.

CHANGES TO RULE:

111-040-0050
Declination of Coverage ¶

(1) As used in this section:¶
(a) "Opting out of coverage" means that an otherwise Eligible Employee elects not to enroll in a medical plan and is eligible to receive a portion of the cash contribution or other type of remuneration as provided for under a collective bargaining agreement, documented Entity policy, or employment contract.¶
(b) "Waiving benefits" means that an otherwise Eligible Employee elects not to enroll in any one of the benefit plans available under the OEBB-sponsored benefits program and is not eligible to receive any portion of a cash contribution or other type of remuneration.¶
(2) Unless otherwise specified in a collective bargaining agreement, documented Entity policy or employment contract in effect on July 1, 2008, an Eligible Employee may opt out of ~~the~~enrollment in an OEBB-sponsored medical benefit plan~~s~~. Eligible Employees electing to opt-out must:¶
(a) Maintain minimum essential medical coverage for themselves and all other individuals for whom the employee can reasonably expect to claim a personal tax exemption deduction for. The medical coverage must be another employer-sponsored group medical benefit plan, Medicare, TRICARE, Veterans' Administration Health Benefit Program or Indian Health Services (IHS). The employee must attest to the coverage at initial enrollment and annually thereafter~~, or~~.¶
(b) Be ~~enrolled in Medicare or TRICARE coverage and be~~ employed by an Entity that administers their benefits program in compliance with the requirements of Section 125 of the Federal Internal Revenue Code (IRC)~~;~~.¶
(~~c~~3) Eligible Employees electing to opt-out must:¶
(a) Meet the requirements of the Entity opt-out program in which they are participating;¶
(~~d~~b) Submit their election to opt-out through the OEBB benefit management system; and¶
(~~e~~c) If requested, provide proof of current coverage under another employer-sponsored group medical benefit plan.¶
(~~3~~4) An Eligible Employee participating with or enrolled in coverage bought on the individual market, the Oregon Health Plan/Medicaid, ~~Veterans' Administration Health Benefit Program,~~or the Student Health Insurance market may not elect to opt-out of OEBB-sponsored medical benefit plans. The Eligible Employee may elect to waive benefits or enroll in an OEBB-sponsored medical benefit plan.¶
(~~4~~5) Eligible Employees electing to opt-out of the OEBB-sponsored medical benefit plans may enroll in the dental benefit plans, vision benefit plans, and optional benefit plans.¶
(~~5~~6) The level and type of funds and allowances retained by Eligible Employees and Entities as a result of opt-out programs are determined through collective bargaining agreements and documented Entity policies.¶
(~~6~~7) An Entity will provide OEBB with a written description of its opt-out program upon request.¶
(~~7~~8) An otherwise Eligible Employee may opt-out of medical if the criteria above are met, decline dental and/or vision, or elect any combination of benefits provided under the OEBB-sponsored benefits program, unless otherwise stated in a collective bargaining agreement or documented Entity policy.¶
(~~8~~9) Elections to opt out of the medical benefit plans or waive benefits must be made at the time of hire, when initially meeting eligibility, during an open enrollment period, or following a QSC event whereby the OEBB QSC Matrix allows this as an option.¶
~~(a) Coverage for previously OEBB-eligible employees or previously OEBB-eligible dependents enrolling in a dental plan during an open enrollment period will be limited to routine and preventive care for the first 12 months and subject to a 12-month waiting period for orthodontia coverage.¶~~
~~(b) An Eligible Employee who enrolls in a dental plan, or adds previously OEBB-eligible dependents to their dental plan following and consistent with a QSC event will not be subject to the 12 month waiting period.¶~~
(~~9~~10) An Eligible Employee electing to not enroll when initially eligible for optional insurance plans, or enrolling for more than the guarantee issue amount, will have to go through a medical review. Failure to remit a medical history statement or complete other requirements will result in a declination of requested amounts, or the amount above the guaranteed amount, if applicable.¶
(1~~0~~1) An Eligible Employee electing to not enroll when initially eligible for optional short term disability will be subject to a late enrollment penalty upon enrollment.
Statutory/Other Authority: ORS 243.860 - 243.886
Statutes/Other Implemented: ORS 243.864(1)(a)