

## ***Dependents Eligible for Coverage***

Employees may enroll the following individuals for coverage:

- Spouse or domestic partner
- Dependent children
- Domestic partner's children.

## **Qualifying dependent children**

Following is a summary of PEBB's definition of a qualifying dependent child. If you are in doubt if a person in your family qualifies as a dependent child, contact your agency or PEBB.

### **A qualifying dependent child must be either:**

- A biological or adopted child, or a child placed for adoption with the employee or the employee's spouse or domestic partner; or
- A Child by Affidavit, which includes but is not limited to, a foster child; a child who is your legal ward by court decree; a child under the legal guardianship of the employee; or the child of a dependent.

### **In addition, the qualifying child:**

- May not be married or have a domestic partner
- May not be in the military
- Must be a member of the eligible employee's household
- May not qualify as a qualifying child for anyone other than the eligible member. However, for the purpose of obtaining health care coverage under both parents the child may be the qualifying child of both parents that are divorced or legally separated.
- The child must be a U.S. citizen, national or resident of the U.S. or a resident of Canada or Mexico. When an adopted child or child placed for adoption fails this requirement they can still be the employees' dependent child if the child has the employee's home as his principal home and is a member of the employees' household, and the employee is a citizen or national of the U.S. Foreign students are not eligible for PEBB coverage.

### **Qualifying child age requirements: The child:**

- Is under the age of 19 at the end of the calendar plan year; or
- Is between the ages of 19 and up to age 24 during the plan year, and is a full time student who has not attained the age of 24.

Student means an individual who during each of five calendar months during the calendar year is a full-time student at an education organization that normally maintains a regular faculty and

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curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

To be full-time, the student must be enrolled for the number of hours or courses the school considers full-time attendance. The term school includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade, and mechanical schools. It does not include on-the-job training courses, correspondence schools, or schools offering courses only through the Internet. People who work "co-op" jobs in private industry as part of a school's regular course of classroom and practical training are full-time students.

[*Effective Jan. 1, 2010* Note: Seriously ill or injured full time student dependents covered under an eligible employee's plan immediately before the first day of a medically necessary leave of absence, or change in enrollment such as full-time to part-time, may continue coverage for up to one year while on a medically necessary leave of absence. "Medically necessary leave of absence" means a leave of absence from a post-secondary educational institution, or any other change in enrollment at the institution that starts while the child is suffering from a serious illness or injury, is medically necessary, and causes the child to lose student status for purposes of PEBB eligibility. A physician of the dependent must provide a written certification to PEBB stating that the child is suffering from a serious illness or injury and that the leave of absence (or change in enrollment) is medically necessary. The extension of coverage continues until the earlier of one year after the first day of the leave or the date that coverage would otherwise terminate, (e.g., due to an age limitation).]

- Is age 19 up to 24 and the eligible member provides or expects to provide more than half the child's support for the year, and the child lives in the eligible member's home for at least six months of the year; or
- There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

The attending physician must submit documentation of the disability to the eligible employee's PEBB medical insurance plan for eligibility approval. Once approved, the medical plan may review the dependent's health status at any time to determine the child's continued PEBB eligibility.

When the dependent child is 24 years of age or older, the disability must have existed before attaining age 24. The child must have had continuous medical insurance coverage, group or individual, prior to attaining age 24 and the insurance must continue until the PEBB insurance effective date.

If the child terminates from PEBB insurance coverage after age 24, the child is ineligible for future enrollment as a dependent child under PEBB coverage.

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**Certifying Dependent Children Age 19 to 24**

To cover dependent children age 19-24 in the next plan year,(age 19 before the new plan year starts) you must certify their continuing eligibility before the start of the new plan year. You may do so online or by submitting the required form to your agency during Open Enrollment. The yearly dependent certification excludes children approved by the insurance plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

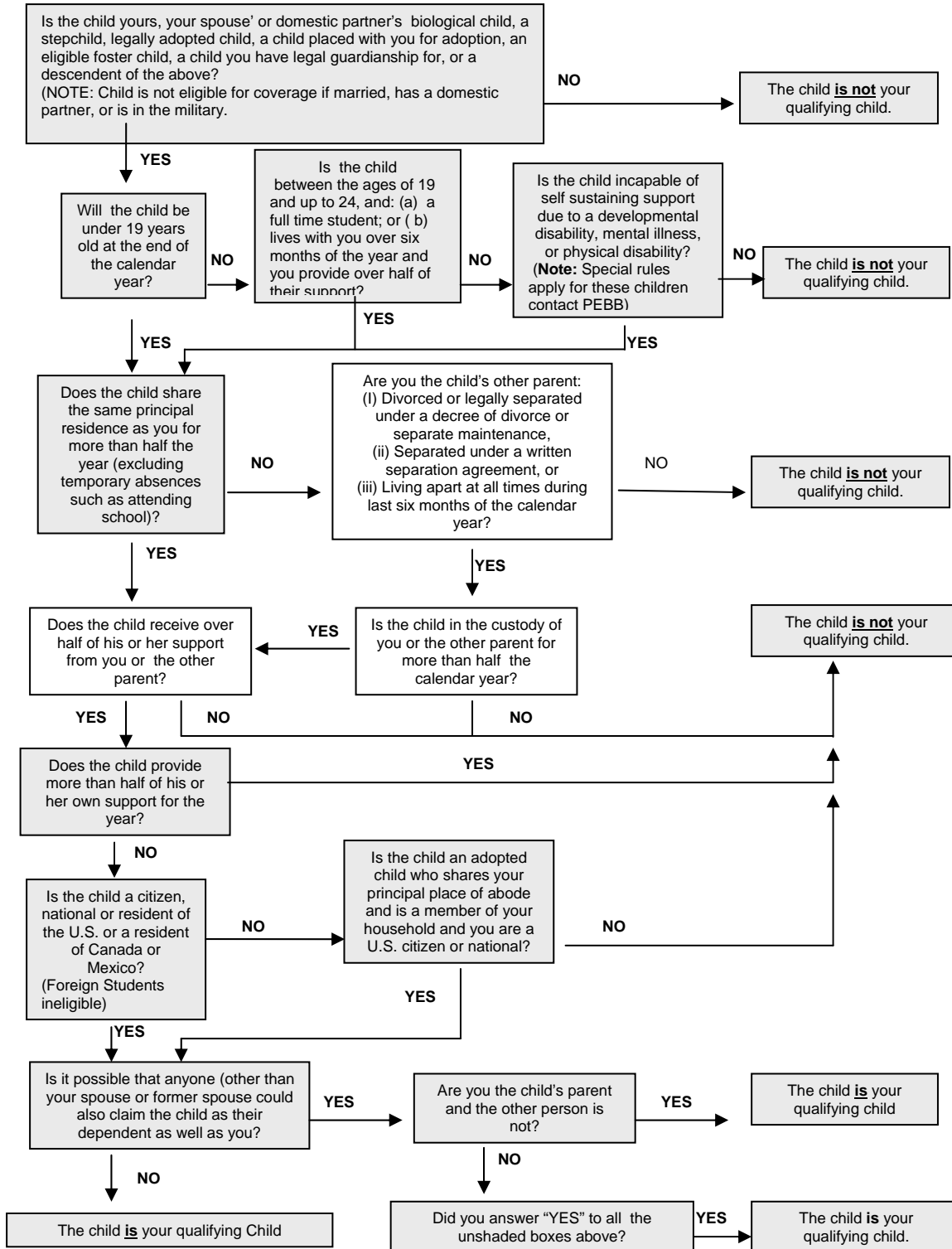
PEBB terminates all insurance coverage for dependent children the last day of the month in which the child reaches age 24. PEBB will not terminate coverage for children age 24 or older when approved by the insurance plan as incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

It is your responsibility to notify the agency when any dependent no longer qualifies for coverage. Not providing notification may cause you to have to repay claim expenses incurred when the individual no longer qualifies for coverage.

The following flow chart helps determine if a dependent child qualifies for coverage in PEBB.

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**PEBB Qualifying Dependent Child Flow Chart**



## **Domestic partners and their dependents**

You may cover a domestic partner and dependents who meet certain requirements. Adding a domestic partner who is not a tax dependent will increase your tax withholding, and you will take home less pay.

PEBB provides benefits to domestic partners that are comparable to those offered to married spouses, where legally possible. You may enroll your domestic partner in all benefit coverage available to a spouse either within 60 days of a Qualified Status Change or during the open enrollment period. A domestic partner's children are also eligible for enrollment. Federal laws may require differences in administration of benefits. For example, Medicare will pay as primary coverage for a domestic partner who becomes eligible for Medicare while covered under an employee's coverage.

### **The member and the domestic partner are eligible if they have**

- Registered a certificate of their domestic partnership under Oregon law; or
- Signed and submitted to the member's agency a notarized Affidavit of Domestic Partnership declaring that both meet all the following criteria:
  - Are both at least 18 years of age;
  - Are responsible for each other's welfare and are each other's sole domestic partners;
  - Are not married to anyone ;
  - Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;
  - Currently share the same regular permanent residence; and
  - Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household. Financial information must be provided if requested.

**NOTE:** An employee who has a registered certificate of domestic partnership must submit only the appropriate PEBB update forms to the agency either within 60 days of meeting the qualifications or during the open enrollment period to add coverage for a domestic partner. An employee who establishes the partnership through an Affidavit of Domestic Partnership must submit both the affidavit and appropriate PEBB update forms to the agency either within 60 days of meeting the qualifications or during the open enrollment period.

### **Affidavit of Domestic Partnership Process**

The employee must submit the completed, notarized affidavit to the agency within five business days of the electronic enrollment date or the date the agency receives the paper enrollment or update forms. If not, coverage will terminate for the domestic partner and the domestic partner's dependent children back to the effective date.

If requested, the member and domestic partner must be able to provide at least three forms of verification of their joint responsibility, with information dated to confirm eligibility at the time of enrollment.

### **Children of Domestic Partners**

Children of eligible domestic partners may be covered by the member's plans, whether or not the enrollment includes the domestic partner. An employee who has registered a domestic partnership must submit only the appropriate PEBB update forms to the agency to add coverage for a domestic

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partner's children either within 60 days of meeting the qualifications or during the open enrollment period. If the employee does not have a registered certificate of domestic partnership, the employee must submit the completed, notarized Domestic Partner Affidavit to the agency within five business days of the electronic enrollment date or the date the agency receives the paper enrollment or update forms. If the affidavit is not received within 5 days, coverage will terminate for the domestic partner's dependent children back to the effective date.

### **Tax Considerations**

Before enrolling a domestic partner or a partner's children for coverage, employees should know there may be important tax considerations. Payroll will add an imputed value to the eligible employee's taxable wages for the fair market value of the insurance premium for coverage of the domestic partner and domestic partner's children, unless the employee notifies payroll that the domestic partner qualifies as a tax dependent under IRS rules.

Following is information provided by the Oregon Department of Justice Attorney General's Office regarding this topic.

### **Domestic Partner and Domestic Partner Children as Dependents for Pre-Tax Health Benefit Purposes**

#### **Domestic Partners Eligible for Health Coverage**

Group health coverage, including medical and dental benefits, is available for a domestic partner (and a domestic partner's children) of the State of Oregon's eligible employees. Refer to the applicable summary plan description (SPD) and enrollment materials for a definition of domestic partner and the procedures you must follow to enroll your domestic partner and or domestic partner children for coverage.

#### **Tax Consequences of Domestic Partner Coverage**

Under federal tax law, if your (non-spouse) domestic partner does not qualify as your tax dependent for health coverage purposes (as defined below), then the value of your domestic partner's coverage will be included in your gross income, subject to federal income tax withholding and employment taxes, and will be reported on your Form W-2. This includes any portion of the premiums that your employer pays for your domestic partner's health coverage. (The value of coverage varies, depending on the medical and dental coverage options you elect)

If your domestic partner qualifies as your tax dependent for health coverage purposes, then no portion of the premiums paid by your employer will be included in your income or be subject to federal withholding or employment taxes.

Note that if your domestic partner fails to qualify as your tax dependent for health coverage purposes for any portion of the calendar year because of a change of abode, household, or support during the year, the value of your domestic partner's coverage for the portion of the year prior to the change will be included in your gross income and related income tax and employment tax withholding will be charged to your pay as rapidly as possible. The catch-up on withholding will reduce your take-home pay and such reduction could be for some periods. The catch up on withholding to your agency payroll must be completed before the end of the current tax year.

You should also note that state tax treatment of domestic partner health coverage will differ. See OAR 150-316.007-(B) Policy -- Application of Various Provisions of Tax Law to Domestic Partners, or call the Oregon Department of Revenue at 503-378-4988 or toll-free from an Oregon prefix at 1-800-356-4222 for more information about state tax treatment.

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Although coverage is also available for children of an eligible employee's domestic partner under your employer's group health plan, a domestic partner's child is unlikely to qualify as an employee's tax dependent for health coverage purposes. Thus, the value of such coverage generally must usually be included in your gross income.

**Who is a Dependent Domestic Partner for Pre-Tax Health Coverage?**

IRS Publication 501 contains information on how to determine a dependent. In general, the following conditions must be met (in addition to meeting PEBB domestic partner eligibility requirements) for your same-sex or opposite-sex domestic partner to qualify as your tax dependent for pre-tax health coverage purposes under federal tax law.

- You and your domestic partner have the same principal place of abode for the entire calendar year;
- Your domestic partner is a member of your household for the entire calendar year (the relationship must not violate local law);
- During the calendar year you provide more than half of your domestic partner's total support
- Your domestic partner is not your (or anyone else's) qualifying child under Code 152 c; and
- Your domestic partner is a U.S. citizen, a U.S. national, or a resident of the U.S., Canada, or Mexico.

Your domestic partner could be your federal tax dependent for health coverage purposes even if you do not claim an exemption for him or her on your Form 1040. If your tax year is a year other than the calendar year, use the other year instead. Your employer will also consider your opposite-sex domestic partner to be your federal tax dependent for health coverage purposes if he or she meets the above requirements for the first portion of the year, then you marry, and he or she remains your legal spouse for the remainder of the year.

To determine whether you provide more than half of your domestic partner's total support, you must compare the amount of support you provide with the amount of support your domestic partner receives from all sources, including Social Security, welfare payments, the support you provide, and the support your domestic partner provides from his or her own funds. Support includes food, shelter, clothing, medical and dental care, education, and the like. If you believe you might provide more than half of your domestic partner's support, you should use the support worksheet in IRS Publication 501 (Exemptions, Standard Deduction, and Filing Information) before you complete the Certification described below.

**When is a Domestic Partner's Child Considered a Dependent for Pre-Tax Health Coverage?**

Determining whether a domestic partner's child is a dependent is more complicated than determining if a domestic partner is a dependent. Seeking the advice of a tax professional is recommended before certifying that a domestic partner's child(ren) is/are dependent(s). This is because in addition to PEBB's requirements for dependent children, generally all of the following must be met for your domestic partner's children to qualify as your tax dependent(s) for pretax health coverage under federal tax law:

- The child is your domestic partner's child, adopted child, child placed for adoption, or eligible foster child
- The child is a member of your household who shares your principal place of abode. (Note that the child is not a member of your household if your relationship with the child violates local law.)

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- You provide over half the child's support for the calendar year.
- **The child is NOT a Qualifying child of any other taxpayer\***
- The child is a U.S. citizen, national or resident of the U.S. or a resident of Canada, or Mexico; or is an adopted child and you are a U.S. citizen or national.

**\*Note:** Under IRS Notice 2008-5, a domestic partner's child is not a qualifying child of the domestic partner if the domestic partner (or any other person with respect to whom the child potentially would be a qualifying child, such as child's other parent) is not required to file a federal income tax return and either (a) does not file such a return, or (b) does so solely to obtain a refund of withheld income taxes.

### **Filing a Certification of Dependent Domestic Partner Status**

If your domestic partner qualifies as your tax dependent for health coverage purposes, you can avoid having the value of your domestic partner's health coverage treated as taxable income. To avoid taxation, you must complete and return the Certification of Dependent Domestic Partner Status, indicating that your domestic partner qualifies as your federal tax dependent for health coverage purposes. Because the determination of whether a person is a tax dependent for health coverage purposes turns on facts solely within your knowledge, your employer cannot make this determination for you. You should make this determination in consultation with your tax professional. You will be asked to complete a Certification each year at open enrollment. For any year in which your employer does not receive a Certification from you, your employer will assume that your domestic partner does not qualify as your federal tax dependent for health coverage purposes for that year.

**This information is only a summary of the tax provisions governing the tax status of a domestic partner (or the domestic partner's children) for health plan purposes, and is not intended nor should it be relied upon as legal or tax advice. Due to the complexity of these tax rules and the potential impact of any imputed income you may incur, you should seek advice from a competent tax professional before certifying as to the tax status of the person being enrolled.**

### **Removing a Domestic Partner and Domestic Partner's Children from Coverage**

You may remove a domestic partner and partner's children from coverage:

- Within two weeks of receiving the first pay statement reflecting the tax implications following initial enrollment.
- Within 60 days of termination of the partnership. If you terminate a Domestic Partnership by Affidavit, you must complete and submit a Termination of Domestic Partnership form and any other necessary update forms. PEBB plan coverage ends the last day of the month in which the partnership terminates.
- Within 60 days of and consistent with a qualified mid-year change event
- During Open Enrollment.