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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 111  
OREGON HEALTH AUTHORITY  
OREGON EDUCATORS BENEFIT BOARD

**FILED**  
10/26/2020 2:36 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: OEGB Surcharge Rule

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2020 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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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: 11/19/2020

TIME: 10:00 AM

OFFICER: April Kelly

ADDRESS: CALL IN-ONLY

Following direction from Gov/CDC  
public meetings are via conference call  
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Due to COVID-19, public hearings are  
being held via conference call. To  
provide oral testimony during this  
hearing please dial 1-888-398-2342,  
access code 537268#

NEED FOR THE RULE(S):

House Bill 2266 (2019) established that OEGB impose a surcharge for a OEGB member who enrolls a spouse or dependent in their medical coverage who is also enrolled in medical coverage as a OEGB member themselves or as an PEGB member through the Public Employees' Benefit Board. This rule prescribes how the double coverage surcharge works.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 2266 (2019) available on the Oregon Legislature website, or in ORS 2019 edition under Chapter 243 (243.125(3))[https://www.oregonlegislature.gov/bills\\_laws/ors/ors243.html](https://www.oregonlegislature.gov/bills_laws/ors/ors243.html)

Meeting recording from the OEGB Board meeting from Tuesday, October 6, 2020. Proposed rules were reviewed and approved by the Board to give staff the authority to move these rules into the permanent rulemaking process and open

public comment. This can be found online at:

<https://www.oregon.gov/oha/OEBB/Pages/OEBB-Board-Meetings.aspx>

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#### FISCAL AND ECONOMIC IMPACT:

The fiscal or economic impact that these proposed rules have apply to the member, and is minimal. The intent is to encourage OEBB members to closely consider enrollment decisions and decide if double coverage makes sense for their situation. The Rules Advisory Committee (RAC) was asked to weigh in on the fiscal impact this rule may have on them, since they set up payroll deductions and the surcharge is a payroll deduction. The consensus is that there is no fiscal impact to OEBB entities. From the Fiscal Impact of Proposed Legislation on HB 2266 - A, "Passage of this bill is anticipated to have minimal expenditure impact to OHA, PEBB and OEBB. Although passage of this bill could potentially result in savings or costs, PEBB and OEBB cannot quantify the potential savings or costs at this time because the boards' actuaries cannot predict the migration of members and what choices they will make upon losing the option to double cover."

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#### 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).*

There are no expected adverse fiscal impacts or costs to state agencies, local or tribal government associated with the proposed rules.

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

The effect on small business is not likely, since OEBB entities are considered small businesses.

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#### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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ADOPT: 111-040-0055

RULE SUMMARY: HB 2266 (2019) stipulates that OEBB shall impose a surcharge when an OEBB member's spouse or dependent has access to and enrolls in medical coverage offered by OEBB or the Public Employees' Benefit Board (PEBB).

#### CHANGES TO RULE:

##### 111-040-0055

##### Surcharges

(1) For the purposes of this rule, the following definitions apply:¶

(a) Double Coverage means a subscriber/employee that is also an eligible dependent and is enrolled in two OEBB/OEBB or OEBB/PEBB medical plans.¶

(b) PEBB means the Public Employees' Benefit Board in Oregon.¶

(c) Subscriber/employee means the individual who subscribes to their employer's health plan. For the purposes of this rule, a subscriber excludes a COBRA participant, part-time employee, retiree or self-pay member.¶

(d) Dependent means and includes the eligible employee's spouse or domestic partner, or child as defined by OAR 111-010-0010(7), unless otherwise defined in another OEBB rule.¶

(e) Surcharge means an extra fee deducted from the employee's monthly pay.¶

(2) Double Coverage:¶

(a) Effective October 1, 2020, any active full-time subscriber/employees who covers an eligible dependent that is

also enrolled as a subscriber on either an OEGB or PEBB medical plan will be assessed a monthly surcharge.¶

(b) The amount of the surcharge is determined annually by the OEGB Board.¶

(c) The monthly surcharge will only be charged to the subscriber.¶

(d) The subscriber will only pay one double coverage surcharge no matter how many dependents are covered.¶

(e) The surcharge does not apply to Retirees, COBRA participants, self-pay participants, part-time employees or medical opt-outs.

Statutory/Other Authority: ORS 243.860 - 243.886

Statutes/Other Implemented: ORS 243.866(2), ORS 243.864(1)(a)