



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

CHAPTER 101  
OREGON HEALTH AUTHORITY  
PUBLIC EMPLOYEES' BENEFIT BOARD

**FILED**

08/14/2020 3:56 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Protecting OEBB member benefits during COVID-19 crisis

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/30/2020 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: 09/22/2020

TIME: 11:00 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 537568#

**NEED FOR THE RULE(S):**

The Oregon Health Authority, Oregon Educators Benefit Board (OEBB), is proposing to permanently adopt an administrative rule that protects member benefits during the COVID-19 pandemic. These proposed permanent rules will replace the temporary rules set to expire on October 10, 2020. The temporary rules currently in effect implement the Governor's Executive Order 20-03. The Executive Order is the result of a declaration of an emergency due to the public health threat posed by the novel infectious coronavirus (COVID-19). Executive Order 20-03, in part, addresses filing temporary rules to provide services and support during the Emergency Declaration. The current temporary rules and the proposed permanent rules provide protection to OEBB members in the event they do not meet current eligibility (due to their furlough or layoff directly related to COVID-19) for benefit coverage and who are not in a current stability period under the Affordable Care Act or on approved FMLA or any other protected leave.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Office of the Governor, State of Oregon Executive Order No. 20-03. Available online at:  
[https://www.oregon.gov/gov/admin/Pages/eo\\_20-03.aspx](https://www.oregon.gov/gov/admin/Pages/eo_20-03.aspx)  
ORS 243.860 to 243.886, available online or at the request of OEBC staff.

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FISCAL AND ECONOMIC IMPACT:

These proposed administrative rules may have a fiscal and economic impact on OEBC entities (school districts, ESDs, community colleges, charter schools and participating local governments) because they are keeping employees who otherwise would not have qualified for health coverage, enrolled and active in OEBC coverage. While the fiscal and economic impact is indeterminate, OEBC believes any impact is minimal in comparison to the fiscal and economic impact that could be felt by the State of Oregon by increased number of enrollments in other state-sponsored plans such as OHP.

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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).*

(1) All OEBC entities that keep their employees covered with health insurance under this rule are likely to be economically impacted by this rule.

(2)(a) There are no small businesses subject to this rule.

(2)(b) No new cost or possible decreased cost due to this rule, as the benefit administration and associated payroll activities are the same for OEBC entities. Small Business are not subject to this rule.

(2)(c) No new cost or possible decreased cost due to these rules for OEBC entities. Small Business are not subject to this rule.

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

Since small business are not impacted by the proposed rule, none were invited to participate in the development of this rule.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A RAC exception was granted. This is a current temporary rule resulting from Governor's Executive Order 20-03 and the rule is supported by DAS, DOJ and the Governor's Office.

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ADOPT: 111-015-0005

RULE SUMMARY: This rule provides protection to OEBC members in the event they no longer meet benefit eligibility due to their furlough or layoff directly related to COVID-19.

CHANGES TO RULE:

111-015-0005

All Other Benefit-Eligible Employees Not Included in Emergency Family Medical Leave Expansion Act during the COVID-19 pandemic

(1) Benefit eligible full-time and part-time employees who do not meet current benefit eligibility due to their furlough or layoff directly related to COVID-19 and who are not in a current stability period under the Affordable Care Act or on approved FMLA or other protected leave, remain eligible for active OEBC benefits.<sup>¶</sup>

(2) An employee may choose to self-pay or cancel their optional coverages through their employing entity. Failure to self-pay for these optional coverages may result in the cancellation of these coverages. These optional coverages may be reinstated when the employee returns to work. The employee may have a lapse in these coverages and may not use these benefits during their period of premium non-payment. If an employee cancels their Long-Term Care coverage, the employee must re-apply at their current age upon returning to work.  
Statutory/Other Authority: ORS 243.860 - 243.886  
Statutes/Other Implemented: ORS 243.864(1)(a)