



**Washington State
Health Care Authority**

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December 12, 2007

TO: Public Employees Benefits Board Members

FROM: Steve Hill, PEBB Chair

The Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board (LEOFF 2 Board) has submitted a request to the Health Care Authority (HCA) and the Public Employees Benefits Board (PEBB) to expand the current eligibility policy regarding surviving family members of LEOFF 2 members killed in the line of duty. Based on legislation adopted in 2006 the LEOFF 2 Board requests that eligibility be expanded to include the family members of LEOFF 2 members who die in the course of employment - as defined by the Department of Labor and Industries this definition would include the family members of LEOFF 2 members who died from a duty related illness.

Based on HCA staff analysis, I have directed the PEBB program to approve the applications of family members of emergency service personnel, including LEOFF 2 members, who die in the course of employment. I have chosen to take this action pending review by the Board as I am aware that a family is currently seeking PEBB coverage and I did not want to wait until January to resolve this matter.

While I have been advised that I can proceed with this policy decision without approval of the PEBB Board, I believe it is prudent to request your review and support of this decision given the Board's statutory responsibilities. Therefore, I am recommending the PEBB Board adopt the following motion at the January PEBB meeting:

Surviving spouses and dependent children of emergency service personnel killed in the course of employment as determined by the Department of Labor and Industries consistent with Title 51 RCW are eligible to participate in PEBB program insurance plans and contracts.

Current Statutes:

1. PEBB statutes:

RCW 41.05.080(1)(c):

Surviving spouses and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

RCW 41.05.011(14):

"Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington State Patrol

retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

2. In 2006, the Legislature amended LEOFF 2 statutes by adding a subsection to RCW 41.26.510:

(5) The retirement allowance paid to the spouse and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

HCA Staff Analysis:

1. IMPACT OF PROPOSAL ON PEBB RISK POOL
 - Based on data provided by the Office of the State Actuary and discussions with the Department of Retirement Systems and LEOFF 2 Board staff, HCA assumes that utilizing the broader eligibility criteria of "in the course of employment" for all emergency service personnel (including LEOFF 2) will result in an increase in PEBB enrollment of two people/families per year. Thus, HCA assumes this change will not adversely impact the PEBB risk pool or rates.
2. AUTHORITY TO ADOPT BROADER ELIGIBILITY CRITERIA
 - The term "emergency service personnel killed in the line of duty" in RCW 41.04.011(14) is broad enough to include dependants of employees who die in the course of employment. In this case the statutory terminology is broad enough to authorize either the HCA Administrator or the PEBB Board to adopt the broader eligibility criteria.
 - The PEBB Board has broad statutory authority to determine eligibility for PEBB programs. The PEBB Board could adopt a policy that exceeds the minimum eligibility criteria provided in RCW 41.04.011(14) and RCW 41.05.080(1)(c). Thus, the PEBB Board has the authority to expand eligibility to family members of all emergency service personnel killed in the course of employment.
 - The PEBB Board has the authority to resolve any conflict of statutes resulting from adoption of the 2006 legislation in support of the LEOFF 2 Board position to expand eligibility. The PEBB Board could choose to determine that the legislature intended the 2006 legislation to expand coverage for LEOFF 2 surviving spouses.

cc: Steve Nelsen
Matt Smith
Jeff Wickman