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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**PEBB 2-2020**

CHAPTER 101  
OREGON HEALTH AUTHORITY  
PUBLIC EMPLOYEES' BENEFIT BOARD

**FILED**  
04/08/2020 12:44 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Protecting PEBB member benefits during COVID-19

EFFECTIVE DATE: 04/09/2020 THROUGH 10/05/2020

AGENCY APPROVED DATE: 04/03/2020

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

The Oregon Health Authority, Public Employees' Benefit Board (PEBB) is temporarily adopting OAR 101-015-0055 to 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. This temporary rule provides protection to PEBB members in the event they fall below the minimum number of working hours in a month to maintain core health benefit coverage and who are not in a current stability period under the Affordable Care Act or on approved FMLA, CBIW or any other protected leave. Additionally, PEBB members may need more time to submit their Flexible Spending Account (FSA) claims from plan year 2019. The claims runout period usually ends March 31. Due to the timing of the pandemic, PEBB is extending this deadline.

**JUSTIFICATION OF TEMPORARY FILING:**

PEBB finds that failure to act promptly will result in serious prejudice to PEBB members who are in jeopardy of losing their health benefits during this state of emergency, as early as April 30. Losing health benefit coverage during this time would be detrimental to State of Oregon and University employees. PEBB also finds PEBB members need more time to submit their Flexible Spending Account (FSA) claims from plan year 2019 due to the timing of the pandemic. This temporary rule is supported by DAS, DOJ and the Governor's Office.

**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)

**RULES:**

101-015-0055, 101-015-0060

ADOPT: 101-015-0055

**RULE SUMMARY:** This temporary rule provides protection to PEBB members in the event they fall below the minimum

number of working hours in a month to maintain core health benefit coverage and who are not in a current stability period under the Affordable Care Act or on approved FMLA, CBIW or any other protected leave.

CHANGES TO RULE:

101-015-0055

All 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 the 80-hour minimum requirement and who are not in a current stability period under the Affordable Care Act or on approved FMLA, CBIW or other protected leave, will remain eligible for medical, dental, vision and employee basic life insurance. Employees that fail to meet the 80 hour monthly minimum requirement will not be paid the monthly opt out incentive.¶

(2) An employee may choose to self-pay or cancel their optional coverages. Failure to self-pay for these optional coverages may result in the cancellation of these coverages. These optional coverages would 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. Terminated Flexible Spending Accounts (FSA) will not reinstate automatically. Subscribers may enroll in an FSA consistent with a qualified status change upon their return to work. 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 243.061 - 243.302

Statutes/Other Implemented: ORS 243.125(1)

ADOPT: 101-015-0060

RULE SUMMARY: PEBB members may need more time to submit their Flexible Spending Account (FSA) claims from plan year 2019. The claims runout period usually ends March 31. Due to the timing of the pandemic, PEBB is extending this deadline. This temporary rule extends the deadline.

CHANGES TO RULE:

101-015-0060

All current PEBB ASIFlex Flexible Spending Account (FSA) Subscribers  
Employees enrolled in a Health Care Flexible Spending Account (HCFSA) and/or a Dependent Care Flexible  
Spending Account (DCFSA) during plan year 2019, may submit claims incurred by March 15, 2020 to ASIFlex, until  
June 30, 2020. PEBB has extended the claims runout period in response to COVID-19.

Statutory/Other Authority: ORS 243.061 - 243.302

Statutes/Other Implemented: ORS 243.125(1), 243.223(1)