

Chapter 287 of NAC

EMERGENCY REGULATION OF THE  
BOARD OF THE PUBLIC EMPLOYEES' BENEFITS PROGRAM

LCB File No. E002-13

(Effective for 120 days after July 1, 2013)

Explanation – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 122A.100 and 287.043.

A REGULATION relating to allowing individuals previously covered under a permanent legal guardianship to continue health insurance coverage after the permanent legal guardianship terminates up to the age of 26 consistent with the coverage of children.

**Section 1.** NAC 287.312 (as amended by adopted Regulation R002-12) is hereby amended as follows:

1. To determine whether the child of a participant or his or her spouse or domestic partner who is incapable of self-support because of a physical or mental disability continues to be eligible for coverage by the Program, the Executive Officer or his or her designee:

(a) Shall require submission by a physician who provides care to the child of a written statement on a form prescribed by the Board indicating that the child has a mental or physical impairment which causes the child to be incapable of self-sustaining employment and to depend on the participant or his or her spouse or domestic partner primarily for support. The written statement required by this paragraph must be prepared by the physician within 90 days before the statement is provided to the Program.

(b) May require:

(1) Submission of periodic updates regarding the physical or mental disability of the child by the participant or his or her spouse or domestic partner;

(2) Submission of the child to a mental or physical examination conducted by a physician selected by and at the expense of the Program; and

(3) Any other documentation required by the Program that demonstrates financial support of the child by the participant or his or her spouse or domestic partner.

2. Children eligible for coverage as a dependent may include:

(a) biological children; ~~and~~

(b) adopted children; ~~and~~

(c) children placed in the residence of the participant for adoption; ~~and~~

(d) stepchildren; ~~and~~

(e) any other child who is related to the participant or his or her spouse or domestic partner if the participant or his or her spouse or domestic partner is legally responsible for the child and the child is financially dependent on the participant or his or her spouse or domestic partner for care and support; *and*

*(f) an individual who would otherwise qualify pursuant to paragraph (e) except for the condition of legal responsibility who was covered by the Program at the time his or her guardianship terminated pursuant to NRS 159.191(d), or a similar law from another jurisdiction, who has not reached the age at which a similarly situated child under paragraphs (a)-(d) would not otherwise be eligible to receive coverage under the Program.*

3. A foster child of a participant or his or her spouse or domestic partner is not eligible for coverage as a dependent.

**PUBLIC EMPLOYEES' BENEFITS PROGRAM BOARD  
STATEMENT OF EMERGENCY**

WHEREAS, the Public Employees' Benefits Program Board ("PEBP Board") has convened this public meeting for the purpose of considering the adoption of the foregoing Emergency Regulation, which relates to providing health insurance benefits to young adults whose legal guardianship has terminated pursuant to subsection d of section 1 of Nevada Revised Statutes ("NRS") 159.191;

WHEREAS, the PEBP Board finds that an emergency exists insofar as:

1. The Patient Protection and Affordable Care Act ("ACA") provided for the extension of health insurance benefits to young adult children to age 26 effective July 1, 2012 but narrowly construed the definition of children to include only a biological child, stepchild, adopted child or eligible foster child of the taxpayer thereby excluding grandchildren or other related individuals;

2. The PEBP Board approved changes in 2012 to cover young adult children to age 26 effective July 1, 2012 in accordance with the ACA. Consistent with NRS 159.191, the Master Plan Document ("MPD") maintained that a minor child under permanent legal guardianship was eligible for coverage up to the age of 18 or 19 depending on the status of the permanent legal guardianship.

3. PEBP Board staff conducted a dependent audit to determine if there were individuals over the age of 18 or 19, depending on the status of their permanent legal guardianship, who were still being covered by their previous guardian and identified approximately 30 such individuals.

4. Pursuant to existing regulations, young adults whose guardianship has terminated pursuant to subsection d of section 1 of NRS 159.191 are no longer eligible for coverage under their previous guardian's health insurance coverage and will be without health insurance coverage beginning July 1, 2013;

NOW THEREFORE, the PEBP Board hereby adopts the foregoing Emergency Regulation which shall be effective on July 1, 2013 upon the endorsement by the Governor and filing with the Secretary of State.

FOR THE PEBP BOARD:

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/s/  
JAMES R. WELLS  
Executive Officer  
Public Employees' Benefits Program

7/23/2013  
Date



## NOTICE OF ADOPTION OF EMERGENCY REGULATION

### 1. Meetings and Public Comments:

At the May 16, 2013 PEBP Board meeting the Board discussed revisions to the Master Plan Document including the termination of individuals previously covered under an order of permanent legal guardianship. Public comment was made by:

Patricia Whitten- *in regards to her grandson turning 19 and not having insurance.*

At the request of the PEBP Board on May 16, 2013, staff performed additional research and brought the item back to the Board on July 11, 2013. The Board recognized that providing coverage to individuals who had aged out of a permanent legal guardianship could only be accomplished by changing regulation.

The Board believed it to be matter of equality to extend coverage to such individuals. Public comments was made by:

Jim Luttgies- *His wife is a participant and her granddaughter who was a dependent on her coverage, has aged out of guardianship. He has been trying to find out whether or not she can be covered or if he needs to obtain COBRA for his granddaughter.*

The motion carried with one member opposed to proceed to issue an emergency regulation.

- 2. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**  
**(a) Both adverse and beneficial effects; and**

The proposed emergency regulation (“regulation”) extends coverage to individuals who would otherwise be ineligible for coverage under the PEBP program. It presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public. There will be some additional costs to PEBP regarding eligibility confirmation and providing tax information to participants as required by the IRS.

**b) Both immediate and long-term effects**

PEBP does not believe there will be any immediate or long-term effects of this regulation.

- 3. The estimated cost to the agency for enforcement of the adopted regulation:**

PEBP does not anticipate any additional cost to administer the regulation.

- 4. A description of any regulations of other state or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or**

**overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency**

There are no known state or government agency regulations that the proposed regulation duplicates.

- 5. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions should be provided.**

The Patient Protection and Affordable Care Act (“ACA”) extended coverage to age 26 for biological, adopted and foster children but not to any other individuals. Organizations may cover additional individuals subject to certain provisions of the Internal Revenue Code. This regulation extends that coverage, to age 26, to individuals previously covered by a participant under an order of permanent legal guardianship who would otherwise be ineligible pursuant to current regulation.

- 6. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide for a new fee or increase an existing fee.