

**Q & A Eligibility: Averaging Qualifying Months for Nonpermanent,
Career Seasonal, and Instructional Year Employees
2-5-08**

1. What types of employees will be affected by the change in eligibility criteria?

- Nonpermanent employees – Those who work at least half-time and are *expected* to work for no more than six calendar months, but ultimately work more than six calendar months. Employees where there is no expectation as to the duration of work fall into this category as well.
- Career seasonal employees – Those who work half-time or more on a nine month seasonal basis
- Instructional Year employees – Those who work half-time or more on an instructional or school year basis.

Permanent employees, part-time faculty, appointed and elected officials, judges, and seasonal employees will NOT be affected by the change in eligibility criteria. (Seasonal employees are not the same as “career seasonal employees.” “Seasonal employees” work a minimum of 3 but less than 9 calendar months while “career seasonal employees” work nine calendar months.)

NOTE: PEBB’s descriptions of employee categories do not necessarily match the job definitions for DOP or your specific agency. In other words, regardless of how an employer defines an employee for hiring purposes, PEBB will consider the employee’s eligibility depending on the definition the employee fits according to WAC.

2. What are the new eligibility criteria?

- The change in eligibility criteria for nonpermanent, career seasonal, and instructional year employees is the use of averaging in determining half-time status.
- Averaging means that half-time status for these employees (and thus, their PEBB benefit eligibility) is computed across several months. The HCA no longer requires that the employee work half time each of the qualifying months, as long as he or she averages half-time or more over the qualifying period. Specifically:
 - ✓ Nonpermanent employees are now benefit-eligible beginning in month 7 if they worked an average of half-time or more during the calendar months 1 through 6.
 - ✓ Career seasonal employees are eligible for off-season benefits if they work an average of half-time or more during their nine-month season.
 - ✓ Instructional year employees, like career seasonal employees, are eligible for summer or off-season benefits if they work an average of half-time during their instructional or school year.

3. What specifically did the court rule?

The court ruled that the 2006 amendment to the career seasonal rule, which specified that half-time was to be determined “per month”, was invalid. The court also interpreted the pre-2006 version of the career seasonal rule to require agencies to average a career seasonal employee’s work hours over the 9 month season in determining whether he/she worked half-time or more for purposes of off-season benefits.

4. What must employers do to implement this change?

The change requires three distinct process requirements of employers. First, an **immediate retrospective review** of benefit eligibility for certain employees. Second, a **prospective process** which standardizes ongoing review to ensure that current and future employees who become eligible for benefits receive them. Finally, an **appeal process** should be created within your employer agency if one is not already established.

A. Retrospective review of benefit eligibility:

1. Using the new eligibility criteria, review the eligibility of all **current employees** who receive pay but no benefits during the last 9 calendar months (May 07 through January 08).
 - a. After you decide which employees meet the new eligibility criteria, send them a letter advising them of their eligibility (*Eligibility Alert Letter*). You should also send a letter to employees who do not qualify, informing them of the results of your review using the new eligibility criteria (*Not Eligible Letter*). It is important that all paid employees who do not have benefits receive either the *Eligibility Alert Letter* or a *Not Eligible Letter*.
 - b. Be prepared to use your review process to assess any current nonpermanent, career seasonal, and instructional year employees who may *become* benefit eligible according to these criteria in the coming months.

OR

2. If your agency cannot, within the month of February, assess the eligibility of all employees who currently receive pay but not benefits:
 - a. Send the *Review Request Letter* to all employees who have received pay but not benefits during the last 9 calendar months (May '07 through January 08). In the letter, employees are informed about the change in eligibility criteria and told to request an eligibility review from their employers if they think they qualify for benefits using the new criteria. In other words, the review process is employee initiated if, as an employing agency, you do not have the capability to assess the eligibility of every employee without benefits.
 - b. At the same time, the employing agency should create a **review process** that assesses the eligibility of any employees who think they may be eligible. We have included an *Eligibility Worksheet* to assist in this.
 - c. In the coming months, other current employees may become benefit-eligible. Use the employee-initiated **review process** to assess the eligibility of these employees.

B. Prospective assignment and review of benefit eligibility:

Apply a **prospective review process** to all future hires from February 1, 2008 forward. At the time of hire, determine whether new hires will be benefit eligible based on your expectations, and clearly state those expectations in your hiring letter or equivalent documentation. Using the review process, continue to assess your employees' eligibility throughout their employment.

C. Appeal Processes

If it is not already established, create a two-step appeal process:

1. For any employees who disagree with your eligibility review, create a process for considering appeals within the employer agency

2. For employees who disagree with the conclusions of your in-house appeal process, instruct them on the right to appeal to PEBB.

5. **Do employers have to retro-actively provide PEBB benefits to employees determined eligible under these new requirements?**

No. Benefit enrollment will not occur prior to March 1, 2008.

6. **What should employers do if employees believe they should be eligible for benefits before March 1, 2008?**

For employees who “newly” qualify under the new eligibility criteria, PEBB is only authorized to enroll employees on or after March 1, 2008. Employees may make an appeal to PEBB if they disagree with this enrollment date.

7. **How is eligibility computed?**

• For Nonpermanent Employees who work over six calendar months

- ✓ Only nonpermanent employees who have been employed on or since August 1, 2007 can be considered under the new eligibility criteria.
- ✓ The employee must be in a non-terminated position over the course of six months and into the seventh. That is, the nonpermanent employee must be retained by a single employing agency over the course of those six calendar months. As the average is based on a calculation over six months, it is not necessary that the employee work every month, except – see next bullet.
- ✓ The employee must have some paid time in the first of the six months.
- ✓ Employers should adopt one of the following methods for determining if an employee’s average monthly employment meets or exceeds 50% of a full-time equivalent.
 - (1) Use a generic 174 hours divided by 2; or
 - (2) Add up the exact work hours available over the six month period and divide by 2:
or
 - (3) Use 80 hours as 50% a month. The enclosed *Eligibility Worksheet* makes this particular computation for you.

• For Career Seasonal Employees :

- ✓ Only career seasonal employees who have been employed on or since May 1, 2007 can be considered under the new eligibility criteria.
- ✓ The employee must have some paid time in each month of the nine-month qualifying period.
- ✓ Employers should adopt one of the following methods for determining if a career seasonal employee’s average monthly employment meets or exceeds 50% of a full-time equivalent.
 - (1) Use a generic 174 hours divided by 2; or
 - (2) Add up the exact work hours available over the nine month period and divide by 2: or

(3) Use 80 hours as 50% a month. The enclosed *Eligibility Worksheet* makes this particular computation for you.

- For Instructional Year Employees:

- ✓ Only instructional year employees who have been employed on or since May 1, 2007 can be considered under the new eligibility criteria
- ✓ The employee must have some paid time in each month of the instructional/school year.

Two Alternatives:

- ✓ If the employer uses *class hours* to compute half time, the equation is the quarter/semester class hours divided by the number of quarter/semester class hours considered by the institution to be a full-time workload. If the answer is .50 or greater, the person is eligible for benefits.
- ✓ If the employer uses regular work hours, the employer should adopt one of the following methods for determining if an employee's monthly employment meets or exceeds 50% of a full-time equivalent.
 - 1) Use a generic 174 hours divided by 2; or
 - 2) Add up the exact work hours available over the nine month period and divide by 2; or
 - 3) Use 80 hours as 50% a month. The enclosed *Eligibility Worksheet* makes this particular computation for you.

8. **When does eligibility for benefits begin for employees who meet the requirements?**
(Corrections as represented made 2/15/2008)

- Nonpermanent Employees

- ✓ For current employees who meet the new eligibility criteria, the first day of eligibility is Saturday, March 1, 2008.
- ✓ For current employees who meet the new eligibility criteria in the near future and for new hires, eligibility for benefits begins on the 1st ~~working~~ day of the 7th month.

- Career Seasonal & Instructional Year Employees

- ✓ For current employees who meet the new eligibility criteria, the first day of eligibility is Saturday, March 1, 2008.
- ✓ For current employees who don't meet the new eligibility criteria now but meet them in the near future, eligibility begins on the first ~~working~~ day of the month after the employee is assessed to have met the criteria.
- ✓ For new hires, eligibility should be assessed according to expected hours worked. If found eligible, eligibility for benefits begins on the first ~~working~~ day of the month following the date of employment ~~unless the first working day IS the date of employment.~~ (Added): If the date of employment is the 1st working day of a month, insurance coverage begins on the date of employment.

9. **Once a person has benefits, what circumstances might result in his or her loss of benefits?**

Employees who establish eligibility through averaging are considered to be in a benefit-eligible position. As such, they will receive employer contribution toward benefits for any months they are in pay status eight hours or more, as provided in WAC 182-08-190.

Except in the case of approved family and medical leave, and except as otherwise provided, only employees in pay status eight or more hours per month are eligible to receive the employer contribution. Loss of benefit eligibility and the availability of extended benefits, COBRA, etc. is covered in WAC 182-12-133.

10. **Once initially eligible, how do we deal with months with no work hours for nonpermanent employees?**

Once eligible, nonpermanent employees maintain their eligibility if they are in pay status eight hours or more per month. If a nonpermanent employee falls below eight hours of pay status in any given month, then the employee becomes ineligible for benefits and must start the six-month qualifying count again.

For example, nonpermanent employees are benefit-eligible beginning in month 7 if they worked an average of half-time or more during the calendar months 1 through 6. If, say, a nonpermanent employee does not work the eighth month, then the employee loses benefits. If the employee returns to work the ninth month, then the 6-month qualifying count for eligibility begins again.

In summary, a nonpermanent employee *qualifies* for benefits by working an average of half-time over six months – and this can include months where the employee did not work. However, a nonpermanent employee *maintains* eligibility by being in pay status for eight or more hours for every month thereafter.

11. **How does “on-call” status impact the eligibility?**

- ✓ PEBB eligibility is based on the hiring authority’s expectation of the duration of time the employee is employed and the hours to be worked, or, after the fact, on the actual duration and work hours. For example, PEBB does not have separate eligibility criteria for “on call” employees. Instead, employers must review the expected or actual duration of employment and the hours worked to calculate PEBB eligibility.
- ✓ Eligibility of employees who voluntarily move from an eligible position to another position will be determined by the duration and work hour expectation of the new position.

12. **How do I determine eligibility for a nonpermanent or career seasonal/instructional year employee if the employee works at two or more employing agencies?**

An employee must meet this eligibility criteria at a single employing agency. Only the hours worked at one employing agency can be used in the averaging computation.

13. **What happens if career seasonal or instructional year employees qualify for off-season benefits under the new criteria, but are terminated or retire/resign during the “off season?”**

Whether or not an employee is expected to return the following season or instructional year, the employing agency must maintain benefits with employee contributions through the “off season.”

For instance, if career seasonal or instructional year employees work more than half time from September through May and decide to retire that summer, then they are eligible for benefits with employer contributions throughout that season/instructional year **as well as** through the 3 months of summer.

The eligible career seasonal or instructional year employee retains benefits through the 3-month “off season” with employee contributions whether or not they are considered “employed” or are expected to return the following season or instructional year.

Again, PEBB benefit eligibility status is different from an employee’s particular employment status.

14. **Who can you contact for additional help?**

HCA Outreach and Training at 1-800-700-1555 or via the Fuze email system.