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Health Benefits

Circular Letter

July 31, 2020

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Distribution: Special

To: All CalPERS Health Benefits Officers and Assistant Health Benefits Officers
**Subject: Department of Labor and Internal Revenue Service COVID-19 Relief Rule –
Timeframe Extensions for Special Enrollment Periods and COBRA Elections During
the Federally Declared National Emergency Period**

Purpose

The purpose of this Circular Letter is to inform all health benefits officers (HBOs) and assistant HBOs of the Department of Labor (DOL) and Internal Revenue Service (IRS) COVID-19 Relief Rule and its impacts on the timelines associated with:

- Health Insurance Portability and Accountability Act of 1996 (HIPAA) Special Enrollment Periods
- Consolidated Omnibus Budget Reconciliation Act (COBRA) Elections¹

Background

As a result of COVID-19, the President of the United States formally declared a National Emergency on March 13, 2020, under Proclamation 9994. The IRS and DOL initially published a Notification of Relief entitled *Extension of Certain Timeframes for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID-19 Outbreak* on April 28, 2020 (Notice). The Notice was later formally published as a Rule (the Rule) on May 5, 2020.

The Rule announced the extension of certain timeframes during the COVID-19 National Emergency. As prescribed, the Rule aims to provide relief through encouraging non-federal

¹ CalPERS continue to assess laws and regulations related to the COVID-19 National Emergency, which may affect contracting agencies and other employers. While we make every effort to assist employers, this Circular Letter is solely informational, current as of the date shown above, and general in nature. This Circular Letter should not be acted upon without specific legal advice. CalPERS encourages each contracting employer to thoroughly review the Circular Letter and the federal regulations and corresponding guidance discussed within, with its own legal counsel to understand how it might specifically apply to them.

governmental plans, such as CalPERS, to provide similar relief that the Rule requires of other impacted entities. CalPERS has confirmed that all contracted Health Plan Partners will comply with the Rule.

Relief Duration

The COVID-19 Relief Rule aims to provide health coverage relief from March 1, 2020, until sixty (60) days after the announced end of the National Emergency. Upon the announced end of the National Emergency, the timelines will revert to the applicable timelines associated with each qualifying event.

Impacted Timeframes

The relief applies to several timeframe limitations within the CalPERS Health Benefits Program including:

- Special enrollment periods
- Election of COBRA coverage and timely payment of premiums

Special Enrollment Periods (SEP)

SEP refers to several types of enrollment, after an initial enrollment opportunity period, which provides a 60-day period for members to provide evidence (notify) to their employer and/or CalPERS of the specific qualifying event that makes them eligible for an SEP. The Rule is focused on the following SEP qualifying events:

- (1) New enrollment due to loss of other coverage; and
- (2) Adding a dependent(s) due to marriage, birth, adoption, or placement for adoption

Additionally, a special enrollment right also arises for employees and their dependents who lose coverage under a state Children's Health Insurance Program (CHIP) or Medicaid or who are eligible to receive premium assistance under those programs.

COBRA

Federal law provides individuals with a 60-day window to elect continued health coverage through COBRA. The Rule provides extended relief past the normal time frames, allowing individual COBRA enrollment rights throughout the national emergency. The COBRA enrollment, however, must be continuous from the date coverage ended.

Collection of COBRA premiums is administered by the specific health plan providing coverage. Normal COBRA rules define *timely* payment of COBRA premiums as premiums that are made within 30 days after the due date or within such longer period as applies to or under the plan. The Rule stipulates application of the relief period to the timely collection of COBRA premiums, which will prevent individual health cancellations due to late or non-payment until 90 days after the national emergency is declared over.

Other Enrollment Types

This Rule does not impact other types of enrollments, including, but not limited to, Parent Child Relationships, Dependent Eligibility Verifications, Disabled Dependent Enrollments, and health plan change requests.

Employer Responsibilities

Under the COVID-19 Relief Rule, the 60-day limitations that currently apply to the Special Enrollment Periods and COBRA elections are being waived during the National Emergency period for those qualifying events that occurred **after March 1, 2020**. HBOs are responsible for applying the extensions to eligible employees and family members and processing the transactions.

HBOs will need to contact CalPERS for assistance with processing new enrollments due to loss of coverage and/or adding a newly acquired dependent if the event and received dates are more than 60 days apart.

Effective Dates

- Special Enrollment Periods: members have the option to enroll and/or add a dependent(s) on a current or retroactive basis.
- COBRA enrollments require continuous coverage. Effective date would be retroactive to the cancellation date.

Supporting Documentation

If the Employer determines that due to extenuating circumstances the member is unable to produce a marriage certificate or domestic partnership registration, the member may execute and submit a signed and notarized [CalPERS Affidavit of Marriage/Domestic Partnership \(PDF\)](#). Additionally, if a member is unable to obtain a government-issued birth certificate for a dependent child due to COVID-19, the member may provide a hospital birth record to facilitate the enrollment and provide the government issued birth certificate once it is available.

Resources to Assist You

You can obtain additional detailed information regarding the IRS and DOL COVID-19 Relief Ruling below:

- [Extension of Certain Timeframes for Employee Benefit Plans, Participants, and Beneficiaries Affected by the COVID-19 Outbreak](#)
- [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#)

Questions

We are committed to assisting you conduct business with the CalPERS Health Benefits Program. If you have questions, visit www.calpers.ca.gov or call the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

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