



Pension & Health Benefits Committee

Agenda Item 6a

March 14, 2023

Item Name: Proposed Revisions to the Public Employees' Medical and Hospital Care Act (PEMHCA) Regulations: Definition of Parent-Child Relationships

Program: Health Benefits

Item Type: Action

Recommendation

Approve staff's recommendation to submit the final rule making file to the Office of Administrative Law (OAL) to amend Section 599.500, subdivision (o) of the PEMHCA Regulations to clarify a dependent's eligibility in a Parent-Child Relationships (PCR).

Executive Summary

The proposed regulatory action will remove ambiguity from determining PCR dependent eligibility by implementing clear enrollment eligibility criteria and required primary and secondary supporting documentation needed to establish a PCR relationship for California Public Employees' Retirement System (CalPERS) health plan subscribers. The change will streamline the enrollment processes for State and contracting agency members and employers.

CalPERS initially published the proposed changes to California Code of Regulations (CCR) Section 599.500, subdivision (o) for public review on June 3, 2022. CalPERS amended the proposed regulation text (Attachment 1) in response to the public comments received. CalPERS held an additional 15-day comment period from November 7, 2022, through November 22, 2022. CalPERS received two comments during this period but made no additional modifications to the proposed regulations.

The CalPERS team is recommending that the CalPERS Board of Administration (Board) approve the proposed amendments the Board approved during its September 21, 2022, meeting.

Strategic Plan

This proposal supports the 2022-27 CalPERS Strategic Plan to improve processes, operations, and advance technologies to gain efficiencies and effectiveness.

Background

On March 16, 2022, the CalPERS Board approved the formal process to amend CCR Section 599.500, subdivision (o) to clarify a dependent's eligibility in a PCR. The OAL published the Notice of Proposed Regulatory Action in the California Regulatory Notice Register (File Number Z-2022-0524-02), commencing a 45-day comment period effective June 3, 2022, which formally closed on July 18, 2022.

CalPERS received two public comments during this period and did not receive any requests for a formal hearing on the matter. CalPERS amended the proposed regulation text (Attachment 1) in response to the public comments received.

At the September 21, 2022, Pension & Health Benefits Committee (PHBC) meeting, the PHBC approved the revised text (Attachment 1). CalPERS held an additional 15-day comment period from November 7, 2022, through November 22, 2022. CalPERS received two comments during this period but made no additional modifications to the proposed regulations. CalPERS did not receive any requests for a formal hearing on this matter. Attachment 2 reflects a complete summary of public comments and CalPERS responses.

Analysis

PEMCHA specifies the family members who are eligible to enroll in the CalPERS Health Benefit program. PEMCHA defines "family member" to include a natural, adopted, stepchild, domestic partner child, and a child for whom a subscriber assumes a PCR. PEMCHA further defines a PCR in CCR section 599.500, subdivision (o) and requires an employee or annuitant certifying a dependent in a PCR to submit a signed Affidavit of Parent-Child Relationship form (HBD-40) at the time of enrollment and annually thereafter (up to the child reaching age 26). By signing this form, the employee or annuitant agrees to provide supporting documentation to evidence financial responsibility for the dependent child.

The proposed regulatory amendments specify the required primary and secondary supporting documentation required to certify that a child is financially dependent on the subscriber and clarifies that the supporting documentation must contain the PCR dependent's name and may not be older than sixty (60) calendar days from the date of signature of the Affidavit of Parent-Child Relationship for most documentation. The amendments also provide guidance for individuals who are not required to file an income tax return. Lastly, the Affidavit of Parent-Child Relationship (HBD-40) form, which is currently incorporated by reference in regulation 599.500, subdivision o, is removed and various provisions currently set forth within the form will be included in the body of the regulation. This will provide CalPERS the ability to make non-substantive formatting changes to the form as needed without having to go through the formal rule making process.

Public comments received during the additional 15-day comment period outlined concerns with the types of primary and secondary supporting documentation required to certify a child is financially dependent upon the subscriber, in addition to the requirement that documents not be older than 60 calendar days for most of the supporting documentation. Comments indicated it may be difficult for members to meet these requirements if their PCR dependent is not school age, particularly if the PCR is in a newly established relationship or if the member is not required

to file taxes. Additionally, one commentor felt there was a need to add regulatory language to allow for exceptions or consideration of special circumstances on a case-by-case basis.

CalPERS does not agree that additional regulatory language is necessary. The proposed regulation outlines various primary and secondary documentation that is acceptable in subparagraph (C) and (D). This provides many opportunities to provide evidence of the child's financial dependence on the subscriber. In addition, CalPERS already has regulatory authority to consider extenuating circumstances on a case-by-case basis as provided in CCR 599.502 subparagraph (g).

CalPERS believes the revised proposed regulation clarifies PCR eligibility criteria, balances the comments received, and ensures that the employing office enrolls only eligible dependents in a PCR in its Health Program. In addition, CalPERS intends to clearly communicate with stakeholders to ensure employers and members understand the process and procedures for establishing a dependent in a PCR.

Budget and Fiscal Impacts

None

Benefits and Risks

The benefits of this proposed regulation are:

- Clarifies PCR eligibility criteria and minimizes confusion among members, employers, and CalPERS team members as to who qualifies as a family member for CalPERS health benefits coverage.
- Streamlines and clarifies health program guidelines and operations for employers and members.
- Increases transparency and ensures the employing office enrolls only eligible dependents in a PCR into the health program.

Attachments

Attachment 1 – Revised Text of Proposed Regulatory Action by CalPERS

Attachment 2 – Summary and Responses to Comments Received During the Public Notice Period of November 7, 2022 through November 22, 2022

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