

PROPOSED REGULATORY ACTION BY CALPERS
Amend §§ 599.500, 599.501, 599.502, 599.503, 599.506, and 599.516
Title 2 of the California Code of Regulations (CCR)

§ 599.500. Definitions

For the purposes of this subchapter:

(a) Terms used in this subchapter that are defined by the Public Employees' Medical and Hospital Care Act (Title 2, Division 5, Part 5 (commencing with Section 22750) of the Government Code) shall have the meanings therein set forth.

(b) "Employing office" means any office of the state or contracting agency to which jurisdiction and responsibility for health benefits action for the employee concerned have been delegated. For annuitants, whether or not the annuitant is also an employee, the Health Benefits Division of the Public Employees' Retirement System is the employing office.

(c) "Payroll office" means either the office of the State Controller for agencies participating under the Uniform Payroll System, or the employing office for agencies not participating under the Uniform Payroll System, irrespective of whether or not salary warrants are issued by the State Controller.

(d) "Time." Whenever in this subchapter a time is stated in which an act is to be done, the time is computed by excluding the first day and including the last day. If the last day is a holiday, it is also excluded.

(e) "Annuity period" means the period for which a single installment of a retirement allowance or annuity is customarily paid for annuitants.

(f) "Enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing to be enrolled in a health benefits plan.

(g) "Enrolled" means to be enrolled in a health benefits plan approved by the Board under this subchapter.

(h) "Register not to enroll" means to file with the employing office a properly completed Health Benefits Plan Enrollment Form electing not to be enrolled in a health benefits plan.

(i) "Cancellation" is the act, by an enrolled employee or annuitant who is eligible to continue enrollment, of filing a Health Benefits Plan Enrollment Form, terminating enrollment in a health benefits plan.

(j) "Administrative action" is the completion or approval, by the Health Benefits Division, of a Health Benefits Plan Enrollment Form terminating or changing the enrollment of an employee, annuitant, or family member in accordance with the provisions of this subchapter.

(k) "Eligible" means eligible under the law and this subchapter to be enrolled.

(l) "Retirement System" means the Public Employees' Retirement System, the State Teachers' Retirement System, the Legislators' Retirement System, or the Judges' Retirement System, as the case may be, under which a retired person has acquired the status of "annuitant."

(m) Tenses and Number. The present tense includes the past and future, and the future the present; the singular includes the plural and the plural the singular.

(n) A "child," as described in Government Code section 22775, means an adopted, step, or recognized natural child until attainment of age 26, unless the child is disabled as described in section 599.500, subdivision (p).

(o) In addition to a "child" as described in Government Code section 22775, "family member" also includes any child for whom the employee or annuitant has assumed a parent-child relationship (PCR), in lieu of the relationship described in subdivision (n), as indicated by intentional assumption of parental status, or assumption of parental duties by the employee or annuitant, as certified by the employee or annuitant at the time of enrollment of the child, and annually thereafter up to the age of 26, unless the child is disabled as described in section 599.500, subdivision (p). This section should not be construed to include foster children.

Certification of the parent-child relationship by the employee or annuitant under this subsection shall be provided to the employing office and shall include:

(1) A CalPERS-issued "Affidavit of Parent-Child Relationship," Rev. June 2015, which is hereby incorporated by reference, signed by the employee or annuitant, and the following:

(A) For a PCR dependent under age 19:

1. A copy of the first page of the employee or annuitant's income tax return from the previous tax year listing the child as a tax dependent. In lieu of a tax return, for a time not to exceed one tax filing year, the employee or annuitant may submit other documents that substantiate the child's financial dependence upon the employee or annuitant.

(B) For a PCR dependent from age 19 up to age 26:

1. A copy of the first page of the employee or annuitant's income tax return from the previous tax year listing the child as a tax dependent; or

2. Documents that substantiate that the child is financially dependent upon the employee or annuitant provided that the child:

a. Either lives with the employee or annuitant for more than 50 percent of the time, or is a full-time student, and

b. Is dependent upon the employee or annuitant for more than 50 percent of the child's support.

If the employee or annuitant fails to provide the employing office any of the above required documents, the child shall not be enrolled, or if enrolled, the employee or annuitant shall be given notice that all coverage of the child will be terminated effective as of the last day of the month following said notice.

(p) "Disabled child," means a child, as described in Government Code section 22775 and section 599.500, subdivision (n) or (o), who at the time of attaining age 26, is incapable of self-support because

of a physical or mental disability which existed continuously from a date prior to attainment of age 26 and who is enrolled pursuant to section 599.501, subdivisions ~~(f)~~(d) and ~~(g)~~(e), until termination of such incapacity.

(q) Meanings of terms related to Medicare are as follows:

"Medicare" means the Health Insurance For The Aged provided under Title XVIII of the Social Security Act; "Part A" means Hospital Insurance as defined in Title XVIII of the Social Security Act; and "Part B" means Medical Insurance as defined in Title XVIII of the Social Security Act.

(r) "Supplemental Plan" means a health benefits plan providing supplemental benefits for persons enrolled under Medicare Parts A and B.

(s) "Health benefit(s) plan," as defined in section 22777 of the Government Code, or "plan" includes any benefit design and premium rate structure offered by the Board to employees, annuitants, and family members through contracts with carriers or self-funded plans administered by the Board pursuant to Sections 22793, 22850 and 22853 of the Government Code. "Health benefit(s) plan" includes basic or supplemental plans.

(t) "Basic Plan" means a health benefit(s) plan providing benefits for employees, annuitants, and family members not enrolled in a supplemental plan.

(u) "Conversion plan" means a nongroup contract offered by the carrier as its standard individual membership plan.

(v) "Control Period" means a period from January 1 through June 30 or July 1 through December 31.

(w) "Alternative benefit plan" means a health benefits plan approved, or contracted for, by the Board exclusively for employees or annuitants of contracting agencies pursuant to Section 22850(f)(2) of the Government Code.

(x) "Risk adjustment" means an actuarial tool used to calibrate premiums paid to health benefits plans or carriers based on geographical differences in the cost of health care and the relative differences in the health risk characteristics of employees, annuitants, and family members enrolled in each plan. Risk adjustment establishes premiums, in part, by assuming an equal distribution of health risk among health benefits plans in order to avoid penalizing employees, annuitants, and family members for enrolling in a health benefits plan with higher than average health risk characteristics.

(y) "Risk assessment" means an objective determination of whether an individual employee, annuitant, or family member or group of employees, annuitants, and family members represents a health risk that is reasonably close to the population average and, if not, of quantifying the relative deviation from the average.

(z) "Risk Adjusted Premium," means the actuarially calculated premium utilizing risk adjustment.

NOTE: Authority cited: Sections 22760, 22775, 22777, 22778, 22794, 22796, 22800, 22830, 22831, 22846(a), 22850, 22860 and 22864, Government Code. Reference: Sections 22750-22944, Government Code.

§ 599.501. Coverage

(a) Each employee or annuitant other than those excluded by subsections (b) or (c) below, is eligible to be enrolled in a health benefits plan at the times and under the conditions prescribed in this subchapter, provided however that no person shall be enrolled in a supplemental plan who at the time of enrollment is not also enrolled under Part A and Part B of Medicare. An eligible employee or annuitant enrolled in both Parts A and B of Medicare, or who has a family member who is so enrolled, may be enrolled in a basic plan contracted for by the Board with respect to persons not enrolled in Parts A and B, and in a supplemental plan with respect to all persons enrolled in Parts A and B

(b) Employees in the following groups are not eligible:

(1) Employees serving under:

(A) Intermittent appointments except where employment is on a permanent basis.

(B) Appointments to positions for which contributions are made by the employer to health and welfare programs providing prepaid hospital and medical care in accordance with Sections 14876 and 19831 18853.5 of the Government Code, ~~or Section 1705.5 of the Harbors and Navigation Code~~, or other similar provisions; or appointments to positions for which salary payment is made in lieu of payment to health and welfare programs providing prepaid hospital and medical care; or

(C) Appointments to positions not exceeding six months duration unless the employee is enrolled prior to beginning service under, such appointment or unless the appointment is in lieu of a permanent appointment pending establishment of and certification from a list from which the position may be filled.

(2) Inmates of institutions who are allowed compensation for such services as they are able to perform.

(3) Persons employed as student assistants and graduate assistants and as student aids in special schools in the State Department of Education and Vocational Rehabilitation, and the public schools of the State.

(4) Blind persons and other ~~physically handicapped~~ persons with disabilities employed by the California Industries for the Blind, or in opportunity centers for the blind by the Department of Education who are not civil service employees.

(5) Persons serving at a State college solely as a teacher in any summer session or intersession for which compensation is specifically attributable to such service in summer session or intersession.

(6) Any member of the Veterans' Home of California who is employed by said Home, or by the Post Exchange thereof or in other Post Fund activities, except as an employee of a contracting agency.

(7) Any employee paid wholly from funds not controlled by the employer or from revolving or similar funds from which regular payroll deduction of the insurance premium cannot be made.

(8) Employees of a contracting agency who are not members of the Public Employees' Retirement System or the State Teachers' Retirement System, except those employees defined in Government Code section 22772(a)(2).

~~(c) Annuitant whose monthly allowance is insufficient to pay withholdings required under the lowest cost plan available is not eligible.~~

~~(d)~~(c) Annuitants whose effective date of retirement is more than 120 days after their date of separation from employment are not eligible.

~~(e) Annuitants who were not enrolled at the time of separation from employment are not eligible.~~

~~(f)~~(d) A disabled child as described in section 599.500, subdivision (p), who is age 26 or over is to be enrolled at the time of the initial enrollment of the employee or annuitant provided that satisfactory evidence of such disability is filed with the Board within 60 days of the initial enrollment.

~~(g)~~(e) A disabled child, as described in section 599.500, subdivision (p), who attains age 26 is to be continued in enrollment if he or she is enrolled at the time he or she attains age 26, provided that satisfactory evidence of such disability is filed with the Board during the period commencing ~~60~~ 90 days before and ending 60 days after the child's 26th birthday.

~~(h)~~(f) The Board shall make determinations of the applicability of this section to specific employees or annuitants, or groups of employees or annuitants.

~~(i) A family member who is not acceptable for enrollment under the underwriting standards of the carrier where application for enrollment is under Section 599.502(c) or (f)(1)(B) is ineligible to be enrolled except during an open enrollment period.~~

NOTE: Authority cited: Sections 22794, 22796, 22800, 22830, 22831, 22846(a) and 22860, Government Code. Reference: Sections 22760(h), 22775, 22800, 22819, 22830, 22831, 22832 and 22837, Government Code.

§ 599.502. Enrollment

(a) Type of Enrollment. An eligible employee or annuitant may enroll for self alone, self and one family member or self and two or more family members. If he or she enrolls for other than self alone, he or she shall enroll all eligible family members. All eligible family members shall be enrolled under the enrollment of only one employee or annuitant. The following family members are not required to be enrolled:

(1) A family member covered under another basic group plan that is not contracted for or approved by the Board;

(2) A family member who is a spouse not living in the member's household; or

(3) A family member who is a child who has attained the age of 18; or

(4) A family member who is a member of the armed forces.

(5) A plan shall not be liable for benefits for a family member, other than as provided in Sections 599.502~~(f)~~(e)(1)(E) and 599.503~~(d)~~(c), nor shall an employee or annuitant be obligated for an increased premium or charge because of such member unless he or she has been included by name in the employee's or annuitant's enrollment.

(6) Upon discovery that a family member required to be enrolled has not been so included, except as provided in Sections 599.502(f)(e)(1)(E) and 599.503(d)(c), the employee or annuitant shall be given notice that all coverage of family members will cease on the last day of the following month unless he or she has changed his or her enrollment to include such family members prior to the cessation of such coverage.

(b) Initial Enrollment.

(1) An eligible employee shall enroll or register not to enroll no later than his or her 60th calendar day of employment or reemployment following a break in service of at least one full monthly pay period.

(2) A permanent intermittent employee shall enroll or register not to enroll no later than 60 calendar days following the end of a control period in which he or she received credit for a minimum of 480 paid hours.

(3) An annuitant or an employee who is brought within coverage of the Act shall enroll or register not to enroll within sixty days of notice of eligibility.

(4) An employee who is on leave of absence without compensation, temporary disability compensation whether or not supplemented by sick leave or vacation, or Non-industrial Disability Leave, or Industrial Disability Leave, or other non-pay status, may not enroll while in such status but shall enroll or register not to enroll within 60 days of his or her return to pay status, if he or she would otherwise have been eligible to enroll during the nonpay status.

(5) An employee of a contracting agency which has filed an election to be subject to the Public Employees' Medical and Hospital Care Act, including an employee of such agency who was on leave of absence or other non-pay status and was enrolled in a health benefits plan of the agency, but shall enroll or register not to enroll no later than the 60th calendar day following such agency's effective date of participation under the Act.

(6) An annuitant who retired while an employee of a contracting agency which has elected to be subject to the Public Employees' Medical and Hospital Care Act, and whose retirement is effective on or prior to the effective date of such election, may enroll no later than the 60th calendar day following notification of eligibility.

(7) An employee whose enrollment did not become effective under the provisions of Section 599.503(a) because of failure to accomplish premium deductions may enroll within 60 calendar days of notification of right to enroll.

~~(c) Health Statement Enrollment:~~

~~An eligible employee may enroll at any time while in an employment in which he or she was eligible to but did not enroll at the time specified in this subsection, and an eligible annuitant may enroll if at the time of enrollment he or she presents a certification from the carrier of the plan that his or her enrollment is acceptable under the underwriting standards of the carrier.~~

~~(d)~~(c) Re-enrollment:

(1) An employee whose enrollment terminated under Section 599.506(a)(5) may enroll within 60 calendar days following the end of a control period in which he or she received credit for a minimum of 480 paid hours.

(2) An employee whose enrollment terminated because of administrative failure to continue payroll deductions under Section 599.506(a)(1)(B) may enroll within 60 calendar days of receipt of notification of termination.

(3) A person whose enrollment terminated upon separation from employment and who is retired with an effective date no later than 120 days following the date of separation, may enroll as an annuitant within 60 calendar days of receipt of notification of eligibility or during any open enrollment period.

(4) An annuitant whose enrollment terminated under Section 599.506(d) because his or her retirement allowance was not sufficient to pay the withholdings of any plan in which he or she was eligible to be enrolled may re-enroll within 60 calendar days of notification that his or her retirement allowance is sufficient to pay the withholdings of a plan in which he or she is eligible to be enrolled.

~~(e)~~(d) The Board will, at least once every three years, provide every employee and annuitant previously enrolled or eligible to enroll or continue enrollment an opportunity for enrollment, and every enrolled employee and annuitant an opportunity for change of enrollment, on such terms and conditions as it may prescribe.

~~(f)~~(e) Change of Enrollment.

(1) (A) An enrolled employee or annuitant may, prior to, at the time of, or within 60 calendar days after acquiring his or her first eligible family member required to be enrolled, change his or her enrollment to include all family members required to be enrolled.

(B) An enrolled employee or annuitant may change his or her enrollment to include all eligible family members required to be enrolled who are acceptable for enrollment under underwriting standards of the carrier if at the time of such change he or she presents a certification of such acceptability from the carrier of the plan in which he or she is enrolled or if such change of enrollment is made during an open enrollment period.

(C) A family member who is not enrolled because of other group coverage or because such person is a spouse not living in the employee's or annuitant's household may not thereafter be enrolled as a family member except during an open enrollment period or pursuant to the carrier's certification of acceptability under its underwriting standards.

(D) A family member who is a child who has attained the age of 18 and who is not enrolled may not be enrolled except upon return from military service as provided in Section 599.502~~(f)~~(e)(2), or pursuant to the carrier's certification of acceptability under underwriting standards, or during an open enrollment period.

(E) Notwithstanding any other provision of this subchapter, an employee or annuitant enrolled for self only may enroll a newborn or adopted child provided application for enrollment is received within 60 calendar days of the date of birth or the date physical custody was obtained. The coverage of a newborn

or adopted child of an employee or annuitant enrolled for self only begins on the date of birth or the date physical custody is obtained and ends on the last day of that month unless an application to enroll that child is received.

(2) An employee or annuitant may at any time change his or her enrollment from self and family to self alone, or delete an eligible family member who is a child who has attained the age of 18 or enters military service. An employee or annuitant may decrease "family member" enrollment from self and two or more to self and one family member on or after the day on which the last family member in excess of one:

(A) ceases to be a family member;

(B) becomes enrolled in another basic group plan; or

(C) in case of a spouse, ceases to live in his or her household or enters military service.

(D) A spouse whose enrollment is terminated on the basis of ceasing to live in the household may not be enrolled thereafter except during an open enrollment period or pursuant to the carrier's certification of acceptability under its underwriting standards.

(E) A family member who is a spouse or a child who was deleted from an employee's or annuitant's enrollment upon entering military service or was in military service at the time of initial enrollment or at the time he or she became a family member may be enrolled upon return from military service.

(3) Except as described in 599.506(f), when a mandatory change of enrollment results in a retroactive cancellation or deletion of enrollment and creates a difference in premium based on the date a family member became ineligible for coverage and the date an employee or annuitant changed his or her enrollment to delete the ineligible family member, the employer and employee or annuitant may receive a refund. The amount of the refund shall not exceed those excess premiums paid for a period of up to six months prior to the date on which the action is processed and recorded, pursuant to the employee's or annuitant's request for retroactive cancellation or deletion of the ineligible family member.

(4) An employee or annuitant who is not enrolled, but is covered under the Public Employees' Medical and Hospital Care Act and this subchapter by enrollment of a spouse, may enroll in the same plan as was the spouse for self alone or self and eligible family members within 60 calendar days after termination of the spouse's enrollment. An employee who is not enrolled, but is covered by the enrollment of a parent, may enroll in any plan available within 60 calendar days after the termination of coverage as a family member. An employee or annuitant who is covered by enrollment of another under this subchapter may enroll in the same plan for self alone or self and eligible family members within 60 calendar days after the effective date of a change terminating his or her enrollment.

(5) An employee who is enrolled as an annuitant and whose status as an annuitant terminates, may enroll in the same plan under which he or she was covered as an annuitant, in a manner which will continue coverage.

(6) (A) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and who moves, including all enrolled family members, or changes employment address may, within 31

calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(B) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and who moves, and whose enrolled family members do not move, may, within 31 calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(C) An employee or annuitant who is enrolled in a plan with a restricted geographic service area and whose enrolled family members move, may within 31 calendar days before the move and ending 60 calendar days after the move, enroll in another health benefits plan.

(D) An employee or annuitant who moves into, or commences employment within, the service area of a plan with a restricted geographic service area may change his or her enrollment to that plan within the period beginning 31 calendar days before and ending 60 calendar days after the move.

(E) An employee or annuitant enrolled in a supplemental plan who moves, other than temporarily, out of the United States as defined in the Federal Social Security Act, may change his or her enrollment to a plan that provides coverage outside the United States.

(7) An employee or annuitant who is enrolled in a health benefits plan which ceases to be an approved health benefits plan may enroll in another plan at any time within 60 calendar days after the date set by the Board for withdrawal of its approval of the plan.

(8) When an employee or annuitant enrolled for self and family dies, leaving a family member as an annuitant entitled to enrollment in a health benefits plan, the enrollment shall continue by enrollment of the surviving annuitant. The family member annuitant may change or cancel the enrollment providing he or she does so within 60 calendar days of notification of continuation. The effective date of the change or cancellation shall be the first of the month following the death.

(9) For purposes of this subsection ~~(f)~~(e) and subsection (a) of this section, a change in custody of a child, whether or not accompanied by a change in economic dependency, at the option of the enrolled employee or employees may be considered to terminate or begin eligibility of the child as a family member of the employee or employees affected by the change in custody.

(10) An employee whose enrollment was continued under Section 599.504(b), (c), (d), (e) or (g) may within 60 days of return to pay status make any change in enrollment which he or she could have made had he or she been in pay status during the continuation.

(11) Upon a determination by the Board or the Executive Officer that an employee or annuitant is unable to maintain a satisfactory physician-patient or plan-employee-annuitant relationship, the Board or Executive Officer may permit a change of enrollment to another plan.

(12) An employee may add or delete family members under the provisions of this section during a period of continuation of enrollment under the provisions of Section 599.504.

(13) Enrollment of any person in a supplemental plan may not be changed to enrollment in a basic plan unless there is an involuntary termination of Medicare benefits or as provided in subdivision ~~(f)~~(e)(6)(E) of this section.

~~(g)~~(f) Multiple Enrollment.

(1) A family member may be enrolled with respect to only one employee or annuitant. An employee or annuitant, who is also a family member of an employee or annuitant, may not be enrolled both as an employee or annuitant and a family member. Enrollment as a family member continues upon entry into employment unless the person enrolls under the rules applicable to employees, in which event enrollment as a family member terminates on the effective date of enrollment as an employee.

(2) An annuitant who would otherwise also be eligible to enroll as an employee must enroll as an annuitant; however, an annuitant who fails to enroll under rules applicable to annuitants and who subsequently becomes an employee, may enroll under rules applicable to employees.

(3) Employees who are employed in more than one position with an employer or employed by more than one employer may enroll with respect to one position or employer only.

(4) An employee or annuitant shall enroll him or herself and all eligible family members into one basic or supplemental plan offered by the Board at the time of enrollment. Where an employee or annuitant and all eligible family members may not enroll in one basic or supplemental plan at the time of enrollment due to the eligibility rules prescribed by the Board, the employee or annuitant shall enroll him or herself and all eligible family members into only one basic plan and into only one supplemental plan provided by the same carrier unless, pursuant to a rulemaking action under the Administrative Procedure Act, the Board authorizes employees and annuitants and all eligible family members to enroll into one basic plan and into one supplemental plan provided by one or more different carriers. All enrollments shall be under the name of only one employee or annuitant.

(5) Where an employee or annuitant has filed more than one enrollment form, in the absence of specific instruction from the employee or annuitant to the contrary, the last enrollment form filed shall be taken as indicating the plan in which the employee desires to enroll.

~~(h)~~(g) Late Enrollment or Change of Enrollment. Upon a determination by the Board or the Executive Officer that an employee or annuitant was unable, for cause beyond his or her control, to enroll or to change enrollment within the time limits prescribed by this subchapter, the Board shall accept his or her enrollment or change of enrollment provided he or she enrolls or changes enrollment within 31 days after he or she is first able to do so.

~~(i)~~(h) Procedure. The employing office will afford each eligible employee and annuitant an opportunity to enroll or to register not to enroll during such times as his enrollment is authorized under these rules by supplying the necessary information relating to available plans and by assisting in the completion of a health benefits plan enrollment form. The employing office will forward all such forms properly completed to the Board's Health Benefits Division.

NOTE: Authority cited: Sections 22794, 22796, 22803, 22830, 22846 and 22860, Government Code.
Reference: Sections 22830, 22831, 22832, 22834, 22836, 22837, 22839, 22840, 22841, 22842, 22843, 22844, 22846, 22847 and 22848, Government Code.

§ 599.503. Effective Date of Enrollment

(a) Normal Effective Date. The effective date of enrollment, re-enrollment, or change of enrollment shall be the first of the month following the date the employee or annuitant's Health Benefits Plan Enrollment Form is received in the employing office, subject to deferral under subsection (b) of this section. An enrollment shall not become effective if payroll deduction is not accomplished within six months following the date on which such enrollment would normally have become effective.

(b) Deferred Effective Date. The effective date of enrollment of an employee or annuitant who, in the month preceding that in which his or her enrollment would otherwise be effective, has insufficient earnings after all other mandatory deductions to permit deduction of his or her full contributions, shall be the first day of the month following that in which his or her earnings after other mandatory deductions are sufficient to permit such deduction. This applies to an employee hired on the last day of the month which is also the first day of a pay period.

~~(c) Effective Date of Enrollment by Certification of Acceptability. The effective date of enrollment, re-enrollment or change of enrollment for an employee or annuitant with respect to whom a certification of acceptability is received by his or her employing office shall be the first day of the following month subject to deferral under subsection (b) of this section.~~

~~(d)~~(c) Effective Date of Enrollment of a Newborn Child or Adopted Child of an Employee or Annuitant Enrolled for Self and One or More Family Members. Notwithstanding the effective date of enrollment as otherwise specified in this section, and without requirement of any prior enrolling action, enrollment of a newborn child or adopted child of an employee or annuitant who has enrolled family members shall be effective on the date of birth or the date physical custody is obtained, and any increase in premium because of the addition of such family member shall be effective on the first of the following month.

~~(e)~~(d) Effective Date of Enrollment of an Annuitant on Approval of Retirement. The effective date of enrollment of an annuitant under Section 599.502~~(d)~~(c)(3) is the first of the month following the month in which retirement is approved, but in no event earlier than the first day of the month following the effective date of retirement.

~~(f)~~(e) Effective Date of Enrollment of an Eligible Family Member (other than an adopted or newborn child). The effective date of a change of enrollment adding an eligible family member, other than an adopted or a newborn child, shall be the first of the month following the date the Health Benefits Plan Enrollment Form is received in the employing office. Enrollment of an eligible family member may not be earlier than the first day of the month following the acquisition of the family member.

~~(g)~~(f) Contracting Agency Employees and Annuitants. Enrollments of a contracting agency's employees and annuitants which are received in the office of the Board on or before the last day of the month immediately preceding the effective date of the agency's participation under the Act shall be effective on the effective date of such agency participation.

~~(h)~~(g) Effective Date of Enrollment of a Newborn Child or Adopted Child of an Employee or Annuitant Enrolled for Self Only. The effective date of enrollment of a newborn or adopted child of an employee or annuitant enrolled for self only shall be the first day of the month following the date of birth or the date physical custody is obtained. Any premium increase resulting from the enrollment of such child shall be due from the effective date of enrollment.

(h) Effective Date in Open Enrollment Period. The effective date of enrollment in special or limited open enrollment period shall be fixed by the Board in its action providing such open enrollment period.

NOTE: Authority cited: Sections 22794, 22796, 22846(a) and 22860, Government Code. Reference: Section 22846(a), Government Code.

§ 599.506. Termination of Enrollment

(a) An employee's enrollment ceases at midnight of the earliest of the following dates:

(1) The last day of the month following the month in which:

(A) employment is terminated either by resignation or by his or her agency for reasons other than for cause;

(B) the last payroll deduction was taken when payroll deduction was discontinued through administrative error if such deduction was not taken for a continuous period of six months;

(2) Where enrollment has been continued while appealing dismissal from service for cause, under the provisions of Section 599.504, the last day of the month in which such appeal action or actions has or have been terminated with the dismissal being upheld or in which the Board determines that the employee has ceased to diligently pursue his or her appeal.

(3) The last day of the month following the month in which employment status changes so that he or she is excluded from enrollment.

(4) The last day of the month in which he or she dies.

(5) The last day of the month following the last month during which a permanent intermittent employee worked less than 480 hours during a six-month control period or 960 hours during a twelve-month control period.

(6) The last day of the month in which application for disability retirement is denied or withdrawn by the employee where enrollment was continued under Section 599.504(f) pending action on the application.

(b) An annuitant's enrollment ceases at midnight of the earliest of the following dates:

(1) The last day of the month in which he or she dies.

(2) The last day of the month following the month in which he or she ceases to be in the status of "annuitant," unless he or she is eligible for enrollment as an employee in which case his or her enrollment will continue under the plan in which he or she is enrolled.

(c) The coverage of a family member under an employee's or annuitant's enrollment ceases at midnight of the earliest of the following dates, unless he or she is eligible to enroll as an employee, in which case, if he or she enrolls within 60 calendar days after said date, his or her enrollment continues under the plan in which he or she enrolls:

(1) The last day of the month in which he or she ceases to be a family member, or to be eligible for enrollment as a family member. The enrollment of an employee or annuitant shall not be changed by

such termination of coverage, and his or her contribution shall continue unchanged until he or she changes enrollment in the manner and at the time provided under Section 599.502~~(f)~~(e)(2) or until an administrative document is processed. However, payment by the carrier of any difference between the premium paid between the date of termination of coverage and the effective date of the change in enrollment, and that which would have been paid had the change in enrollment been effective on the date of termination of coverage, shall not exceed those excess premiums paid for a period of up to six months prior to the date on which the action is processed and recorded, pursuant to the employee's or annuitant's request for retroactive cancellation or deletion of the ineligible family member. Payment shall be made to the employer or the enrolled employee or annuitant as their interests appear and in such manner as may be directed by the Executive Officer of the Board.

(2) The day the employee or annuitant ceases to be enrolled, unless the family member continues to be enrolled as a surviving annuitant under the provisions of Section 599.502~~(f)~~(e)~~(7)~~(8).

(3) On the effective date of an employee's or annuitant's change of enrollment to decrease or terminate family member enrollment.

(d) Upon a finding by the board that enrollment has been continued by an unlawful act as described in Government Code section 20085, all remedies provided by that section shall be pursued. For all terminations of ineligible enrollments, enrollment shall be terminated effective the date of ineligibility pursuant to subdivisions (a) through (c), and the rights, status, or obligations of all parties shall be adjusted pursuant to Government Code section 20160 subdivisions (b) and (e), except that any ineligible enrollment voluntarily terminated by the employee or annuitant prior to June 30, 2013, shall be effective prospectively from the date of termination.

(e) If the retirement allowance of an annuitant is not sufficient to pay the withholdings for the plan in which the annuitant is enrolled, the retirement system from which the allowance is being paid shall notify the annuitant of the plans available at a cost not in excess of the retirement allowance. The annuitant may enroll in another plan whose cost is no greater than his or her allowance, if such plan is available. If the annuitant does not or cannot elect a plan at a cost to him or her not in excess of the allowance, the enrollment of the annuitant shall cease, effective as of the end of the last month for which withholding was made. Each annuitant whose enrollment is so terminated is entitled to conversion pursuant to Section 599.507.

(f) Whenever under this section enrollment terminates on the last day of the month and the monthly payroll period for a state department or agency does not coincide with the calendar month, enrollment ceases as of the last day of the calendar month most closely corresponding to the payroll month in which the event resulting in the termination occurs.

(g) Notwithstanding effective dates prescribed in this section, a termination or cancellation of enrollment based on a reduction in hours or time base must be effective prospectively only. Upon a 30-day notice, terminations or cancellations for a reduction in hours or time base may be effective retroactively if coverage was based upon fraud or intentional misrepresentation of material fact.

NOTE: Authority cited: Sections 20121, 22792, 22794, 22796 and 22846, Government Code. Reference: Section 22846, Government Code.

§ 599.516. Payment of Surcharges for Late Enrollment in Medicare Part B

(a) As used in this section and Government Code section 22831(b):

(1) "Surcharge for late enrollment in Part B of Medicare" means the Part B penalties for late enrollment, exclusive of the Part B premium and interest or penalties for the late payment of premiums. At the discretion of the Board, Part B penalties may be paid directly to the Medicare program or annuitants may be reimbursed for the costs of their Part B penalties.

(2) "Annuitants" means annuitants and their family members.

(3) "Medicare eligible annuitants" means those annuitants and their family members who (a) are enrolled in a basic health benefits plan, (b) are eligible for Part A of Medicare without cost, (c) turned 65 between January 1, 1985 and June 30, 2005, and (d) have not previously enrolled in Part B of Medicare.

(4) "Adverse selection" means that the costs of covering Medicare eligible annuitants in a particular basic plan results in higher premiums for all members of that plan.

(5) "Less costly" means one of the following:

(A) The reduction in a carrier's basic plan premium and resulting savings from moving a Medicare eligible annuitant into the carrier's Medicare plan are greater than an amount equal to the costs of that annuitant's Part B penalties and the employer's mandatory contribution for enrollment in the carrier's Medicare plan. For purposes of this section, the employer's mandatory contribution shall include all amounts that the employer would be required to pay pursuant to Government Code section 22879.

(B) In the case of a self-funded plan administered by the Board, the costs of medical and pharmaceutical claims paid from the Health Care Fund on behalf of a Medicare-eligible annuitant have been, and are projected to be, an amount greater than the Part B penalties for that annuitant and the claim costs that would be paid by the Health Care Fund if the annuitant were enrolled in the plan's Medicare supplement.

(6) "Defined class of Medicare eligible annuitants" means a specific category or group of Medicare eligible annuitants identified or established at the discretion of the Board.

(7) "Determination" means an evaluation and decision made by the Board pursuant to these regulations and Section 22831(b) as to whether (a) adverse selection due to the enrollment of Medicare eligible annuitants has impacted a basic health benefits plan contracted for or approved by the Board and (b) the payment of the Part B penalties for the Medicare eligible annuitant(s) enrolled in that basic plan and their enrollment in a Medicare health benefits plan would be less costly than continued enrollment in the basic plan. An affirmative determination shall be referred to as a determination of cost savings.

(8) "CMS" means the Centers for Medicare and Medicaid Services, the federal agency which administers the Medicare program.

(b) If the Board makes a determination of cost savings with respect to a Medicare eligible annuitant or defined class of Medicare eligible annuitants enrolled in a basic health benefits plan, the Board may seek funding for, or otherwise arrange for, payment of the Part B penalties on behalf of those annuitants.

(c) Determinations will be specific to a designated basic health benefits plan and the costs of the Part B penalties will be based on CMS Medicare eligibility data. At its discretion, the Board may make determinations hereunder on an individual basis or for a defined class of Medicare eligible annuitants. Nothing in this section shall be construed as requiring the Board to undertake or make a determination with respect to a particular basic health benefit plan, individual annuitant, or group of annuitants.

(d) Except as specifically provided herein and approved by the Board, neither the California Public Employees' Retirement System nor any employer or other entity shall have any obligation to pay Part B penalties or reimburse individual annuitants for the costs of such penalties.

(e) Unless otherwise provided by law, the California Public Employees' Retirement System shall not be financially liable for the payment of Part B penalties.

(f) Neither the employer nor any other entity which funds the payment of Part B penalties pursuant to this section shall have any obligation to continue to pay, or fund the payment of, Part B penalties on behalf of any annuitant or family member in the event that:

(1) Funding is not available for payment of Part B penalties; or

(2) The Board determines that payment of the Part B penalties and the employer's mandated contribution is no longer less costly than enrollment in a basic health benefits plan; or

(3) The annuitant or family member, once enrolled in Medicare Part B, fails to pay the Part B premiums or otherwise fails to maintain continuous coverage under Part B.

(g) A Medicare Part B Penalty Reimbursement Program is hereby established for the payment or reimbursement of the penalties for late enrollment in Medicare Part B. If the Board makes a determination of cost-savings with respect to a Medicare eligible annuitant or defined class of Medicare eligible annuitants, each annuitant shall:

(1) Enroll in the Part B Penalty Reimbursement Program.

(2) Enroll in Medicare Part B at the earliest possible date, but no later than the end of the current Part B open enrollment period or, if the open enrollment period has closed, the next Part B open enrollment.

(3) Maintain continuous enrollment in Part B of Medicare and pay all Part B premiums when due. In the event that the program elects to reimburse the program participants for the costs of the Part B penalties rather than paying those penalties directly to Medicare, the annuitant must also timely pay all Part B penalties.

(4) Enroll in a Medicare health benefits plan approved or contracted for by the Board effective as of the date that Part B coverage commences.

(h) A Medicare Part B Penalty Reimbursement Program participant who fails to maintain Medicare Part B coverage, including due to a failure to timely pay the Part B premium and all penalties that are the responsibility of the participant, will not be eligible to re-enroll in a basic plan and may be required to reimburse the Part B penalties previously paid on his or her behalf. Termination of Medicare coverage for failure to pay the Part B premiums shall not constitute an involuntary termination of Medicare benefits under section 599.502(f)(e)(12)(13). In the event that the annuitant later re-enrolls in Part B, he or she will not be eligible to re-enroll in the program unless it is determined that there would be cost

savings. Penalties and costs associated with lapse or cancellation of, and subsequent re-enrollment in, Part B of Medicare will not be reimbursed.

(i) Any Medicare eligible annuitant who is included in a cost savings determination made by the Board and who, after adequate notice from the Board of his or her right to enroll in the Part B Penalty Program, refuses to enroll in Medicare Part B and a Medicare health benefits plan approved or contracted for by the Board, shall no longer be eligible for continued enrollment in a basic health benefits plan.

NOTE: Authority cited: Sections 22794, 22796 and 22831(b), Government Code. Reference: Section 22831(b), Government Code.