



## Agenda Item 11a

May 15, 2012

**ITEM NAME:** Proposed Regulations: Dependent Eligibility Verification Amnesty

**PROGRAM:** Health Benefits

**ITEM TYPE:** Action

### **RECOMMENDATION**

Approve staff's recommendation to pursue proposed regulations that permit the California Public Employees' Retirement System (CalPERS) Board of Administration (Board), to provide amnesty, for a specified time period, to employees or annuitants who voluntarily terminate their ineligible dependent's enrollment in a CalPERS health benefits plan.

### **EXECUTIVE SUMMARY**

Staff is recommending approval to pursue proposed regulations that authorize the Board to provide amnesty, for a specified time period, to employees and annuitants who voluntarily terminate their ineligible dependent's enrollment in a CalPERS health benefits plan prior to dependent eligibility verifications. Amnesty is proven to encourage voluntary disenrollments because employees and annuitants could otherwise be liable for prior health claims and employer contributions for premiums during the period of ineligibility.

Based on published statistics, staff estimates that there may be approximately 29,000 enrolled dependents (including dependents in association plans) that may not be eligible for CalPERS health benefits. Disenrollment of these dependents could lead to a one-time cost avoidance of approximately \$40 million. Approval of a policy to grant amnesty would help expedite these disenrollments.

### **BACKGROUND**

In January 2011, the Board endorsed the Health Benefits Purchasing Review (HBPR) project to develop three to five year strategies and initiatives to ensure the continuation of program sustainability. In January 2012, CalPERS staff presented to the Board a list of strategies and initiatives which included dependent eligibility verifications. The Board supported each of these initiatives and directed staff to move forward with further exploration. The Board also stated that anything that needs implementation should come forward for action. To implement the "Dependent Eligibility Verification" initiative, staff seeks the Board's approval to propose regulations that grant the Board the authority to provide amnesty to employees and annuitants who voluntarily terminate their ineligible enrollment.

## **ANALYSIS**

### **Health Care Cost Containment**

This year, CalPERS will spend over \$7 billion on health benefits for more than 1.3 million active and retired state and local government employees and their family members. The premium cost trend for the past 10 years has been at approximately 5 percent above the consumer price index. “As a fiduciary, the employer is responsible for keeping the plan financially healthy and ensuring compliance with all laws, regulations, and the plan’s provisions. One part of the checkup is an audit to make sure that those who are enrolled are actually eligible, particularly with respect to coverage of dependents. Following the plan rules ensures that all participants are treated fairly. Because health plans are established for the benefit of eligible participants, any resource diverted to ineligible persons puts a strain on the plan’s health, to the detriment of eligible participants.”<sup>1</sup>

According to a 2010 report by Aon Consulting<sup>2</sup>, “Many group health plan sponsors in the U.S. have operated on the ‘honor system’ in managing dependent eligibility. Generally, employees have not been required at the time of enrollment to provide evidence that any particular individual they wish to cover under the plan satisfies the plan’s eligibility requirements. As employers begin more closely to examine their covered health plan populations, they typically are finding that 4% to 8% of covered individuals are ineligible for group health plan benefits, regardless of the industry, geography, or size of the particular employer.” Some categories of ineligible dependents that Aon typically found include:

- Children who exceed the maximum age limits permitted under the plan;
- Married children;
- Former spouses following divorce;
- Grandchildren;
- Uncles/aunts; and
- Live-in girlfriend/boyfriend and their children.

Other states have reported a similar experience. These states have saved millions of dollars through dependent eligibility verifications. Based on industry research, CalPERS estimates that approximately 29,000 dependents may not be eligible to receive health benefits. These “dependents” cost CalPERS employers, members, and the State General Fund millions of dollars. From a Return on Investment (ROI)

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<sup>1</sup> Milliman, *Using dependent eligibility audits to keep health plans healthy: A case study*, <http://www.milliman.com/expertise/employee-benefits/case-studies/using-dependent-eligibility-audits%20.php>, September 1, 2009.

<sup>2</sup> Aon Consulting, *Health Care Reform Analysis: Impact on Dependent Eligibility Audits*, [http://www.aon.com/attachments/AlertUpdate-HCR-DEVAs-2010\\_0426\\_.pdf](http://www.aon.com/attachments/AlertUpdate-HCR-DEVAs-2010_0426_.pdf), April 26, 2010.

perspective, experts state that an audit easily pays for itself in the first year through cost avoidance. Some have reported up to an 800 percent ROI. After the first year of savings, ongoing monitoring and enforcement is necessary to ensure accurate and current eligibility.

CalPERS has a responsibility to audit enrollment to ensure program integrity, reduce unnecessary spending, and ensure program sustainability. Other states' experience indicates that one percent to five percent of dependents are voluntarily dropped when amnesty is granted. This package proposes to add regulations to permit CalPERS to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent's enrollment.

#### Current State Statutes

Government Code (GC) § 22796, subdivision (a)(2) states that among other things, the Board, pursuant to the Administrative Procedure Act, shall adopt all necessary rules and regulations to carry out the provisions in the Public Employees' Medical and Hospital Care Act.

GC § 20085 states that it is unlawful for a person to knowingly do and/or present false information with the intent to be used to obtain and receive benefits. GC § 20160 states, "the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member." GC § 22850.5 states, "the board shall ... implement other measures to achieve ongoing cost savings beginning in the 2012-13 fiscal year." CalPERS could achieve substantial savings if the Board approves staff's recommendation to pursue regulations that provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent's enrollment.

#### Current State Regulations

California Code of Regulations (CCR) Title 2 § 599.506 defines the "Termination of Enrollment" process for CalPERS members. This Section provides specific information about disenrollment dates, payroll deductions, and dependent health coverage.

#### Addition of Proposed Title 2 CCR § 599.506, Subdivision (d)

The proposed regulations in Attachment 1 would add § 599.506, subdivision (d), to the CCR to clarify that CalPERS has the authority to terminate enrollment of a dependent upon finding that enrollment has been continued by fraud. Termination of enrollment will continue to be processed as described in current subdivisions (a) through (c).

This subdivision would also clarify that CalPERS has the authority to correct errors and omissions of any active or retired member, or any beneficiary of any active or

retired member as currently described in GC § 20160. Corrections may include termination of ineligible enrollment or retroactive collection of premiums for benefits that were obtained by ineligible dependents.

This subdivision would also permit CalPERS to provide amnesty to employees and annuitants who voluntarily terminate their ineligible dependent's enrollment. CalPERS and CalPERS health plans will not retroactively collect claims paid, nor will CalPERS employers retroactively collect employer contributions for premiums if the employee or annuitant voluntarily terminates enrollment during the amnesty period.

Amendment to Title 2 CCR § 599.506, Subdivisions (a) through (c)  
CCR § 599.506, subdivisions (a) through (c), remain unchanged.

Amendment to Title 2 CCR §599.506, Subdivisions (e) through (g)  
CCR § 599.506, subdivisions (e) through (g), formerly subdivisions (d) through (f) remain unchanged with the exception of subdivision renumbering.

Employers Could Achieve a One-Time Cost Avoidance in Millions of Dollars  
Once the time period for dependent volunteer disenrollment terminates and dependent eligibility verifications are completed, CalPERS medical claims could decrease. Approximately \$40 million in one-time costs could be avoided through reductions of medical claims. Since medical claims affect premiums and premium contributions, there would be savings. Out of this savings, \$24 million would be attributable to State dependents and approximately \$16 million would be attributable to Public Agency dependents. The one-time cost avoidance for the State General Fund would be approximately \$10.6 million through employer contributions and premium reductions over the two years following volunteer disenrollment and completion of verifications.

## **BENEFITS/RISKS**

Potential benefits associated with Board approval of staff's recommendation to submit regulations to provide amnesty are as follows:

- Decreases in medical claims once enrollment of ineligible dependents is terminated.
- Saves approximately \$40 million in one-time cost avoidance because of the reductions in medical claims.
- Encourages voluntary action on the part of employees and annuitants.
- Decreases the number of dependent eligibility verifications that will need to be conducted.

Potential negative impacts include:

- Generates negative media exposure relating to amnesty.
- Requires temporary written procedures for CalPERS staff to follow during the amnesty period.

**ATTACHMENTS**

Dependent Eligibility Verification Amnesty proposed regulatory language

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