



Pension & Health Benefits Committee

California Public Employees' Retirement System

Agenda Item 8

August 14, 2012

ITEM NAME: Updated Proposed Regulations: Options for Medicare Supplement Plans

PROGRAM: Health Benefits

ITEM TYPE: Action

RECOMMENDATION

Approve staff's recommendation to pursue updated proposed regulations to provide the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) flexibility to offer Medicare supplement health plans from the same or different carriers that provide basic coverage.

EXECUTIVE SUMMARY

Staff is recommending approval to pursue the attached updated proposed regulations to provide the Board flexibility implementing plans for Medicare eligible members. These regulations will help CalPERS reduce premium costs by leveraging opportunities to be part of a larger pool of enrollees and by reducing administrative costs associated with maintaining a supplemental equivalent for each basic plan option.

The Board approved the previously submitted Options for Medicare Supplement Plans regulations as an emergency package at the May 16, 2012, Board Meeting as part of 2013 rate negotiations. Because we are not pursuing the Medicare Pilot Project for 2013, the regulations can be submitted via the regular rulemaking process.

BACKGROUND

In March 2011, the Health Benefits Purchasing Review (HBPR) Project was undertaken to develop three to five year strategies and initiatives to ensure CalPERS can maintain program sustainability to provide quality affordable health care. At the March 2012, Pension and Health Benefits Committee (PHBC) Meeting, three strategic bundles and initiatives related to influencing health care delivery, improving health outcomes and delivering sustainable programs were presented by staff and supported by the Committee.

At the May 15, 2012, PHBC Meeting, staff presented an Options for Medicare Supplement Plans emergency regulations package for approval. On May 16, 2012, the Board approved staff's recommendation, with the exception that approval of the

regulations did not constitute approval of the pilot or any particular program. This action was necessary to allow the implementation of Medicare contracting changes in 2013 should the Board elect to do so. Because no changes are being pursued for 2013, this regulations package no longer qualifies as an emergency. Additionally, following the Board Meeting, staff revised the proposed regulations to further clarify rules regarding enrollments in basic and supplemental plans and to specify that supplemental plans can be offered by the same or different carriers than what is offered for a basic plan. Moreover, the proposed regulations delete a current requirement in provisions governing minimum standards for health benefit plans in order to accommodate CalPERS ability to contract with supplemental plans not affiliated with a basic plan.

ANALYSIS

Having maximum flexibility in the administration of the Medicare plans would allow CalPERS to offer Medicare eligible retirees more diverse plan options that best meet their needs. It would also reduce administrative costs by allowing retirees to be part of a larger pool of enrollees. Presently, the Public Employees' Medical and Hospital Care Act (PEMHCA) regulations imply that CalPERS contracted health plans must provide both a basic and supplemental plan by carrier. This is inconsistent with statutory intent pursuant to Government Code (GC) § 22860, which provides flexibility to the Board in implementing programs for Medicare members. Currently, PEMHCA regulations restrict CalPERS ability to provide Medicare plan options outside those provided by carriers under the basic plans. CalPERS would like to have flexibility to consider this option in its 2014 health benefits design (procurements will begin in late summer) and this revision is consistent with the flexibility envisioned in enabling statute.

Current State Statutes

GC § 20121 permits the Board to make such rules as it deems proper. Additionally, GC § 22796, subdivision (a), paragraph (2), states that the Board, pursuant to the Administrative Procedure Act, shall adopt all necessary rules and regulations to carry out the provisions of PEMHCA.

GC § 22850, subdivision (a), permits the Board the authority to enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans. GC § 22793 states that the Board must, in conformity with PEMHCA, approve health benefit plans and may contract with carriers offering health benefit plans. GC § 22850.5 (enacted in 2011) requires the Board, in carrying out its responsibilities pursuant to GC § 22850, to implement measures to achieve ongoing cost savings beginning in the 2012-13 fiscal year by negotiating with carriers providing health benefit plans to add a core health plan option to the existing portfolio of health plans.

GC § 22857, subdivision (a), states that despite any other provision of law, the Board can contract with carriers licensed and doing business in other states to provide health benefits for employees and annuitants who reside outside of this state. The contracts will be on terms, as the Board deems necessary or desirable. The health benefit plans are not necessarily required to meet the minimum requirements of the Board, as specified in board regulations, but will provide appropriate safeguards for members.

GC § 22860 provides broad authority for the Board to integrate benefits provided by a health benefits plan with the benefits provided by federal or state plans for health care services for the aged in which there is federal or state financial participation. This section also provides the Board authority to adopt rules and regulations necessary for implementation, including enrolling employees and annuitants eligible for benefits provided by a federal or state plan for the aged in separate plans.

GC § 22844, subdivision (a), also provides the Board authority to coordinate CalPERS health benefits with the federal Medicare program to achieve both member and employer savings. This statute prohibits employees, annuitants, and family members “who become” eligible to enroll in Parts A and B of Medicare from enrolling in a basic health benefit plan. Furthermore, this statute permits employees, annuitants, and family members enrolled in Parts A and B of Medicare to enroll in a Medicare health plan.

Current State Regulations

The California Code of Regulations (CCR), Title 2, § 599.501, subdivision (a), permits eligible employees, annuitants, or family members not enrolled in both Parts A and B of Medicare, to enroll themselves or their dependents in a Board contracted basic plan. However, employees, annuitants, or family members enrolled in Parts A and B of Medicare must enroll in a Medicare supplement plan provided by the same carrier.

Proposed State Regulations

The proposed regulations in Attachment 1 would:

- Amend Title 2, CCR § 599.500, subdivision (s), add a new subdivision (t), and re-letter subdivisions (t) through (v) to subdivisions (u) through (w);
- Amend Title 2, § 599.501, subdivision (a);
- Amend Title 2, § 599.502, subdivision (f) paragraph (6)(E), subdivision (g), paragraph (4) and add new subdivision (g), paragraph (5); and
- Delete Title 2, § 599.508, subdivision (a), paragraph (3).

The proposed regulatory amendments would provide the Board flexibility to offer one or more Medicare Supplemental plans by the same or different carriers that provide basic coverage. This change is consistent with statutory intent per GC § 22860, and

would allow the Board to offer one or more supplemental plans regardless of carrier(s) even under combination family enrollments.

Amendment to Title 2, CCR § 599.500, subdivision (s)

CCR § 599.500, subdivision (s) defines “Health Benefits plan” or “plan” pursuant to GC § 22793, § 22850 and § 22853. The amendment to this subdivision would clarify that the definition of a “health benefit(s) plan” is the same as a health benefit plan and align this subdivision with GC § 22777. In addition, this subdivision clarifies that a health benefit(s) plan includes basic and supplemental plans.

Amendment to Title 2, CCR § 599.500, subdivision (t)

Staff recommends amending CCR § 599.500, subdivision (t) to define a “basic plan” as a health plan providing benefits for employees, annuitants, and family members who are not enrolled in a Medicare supplemental plan.

Amendment to Title 2, CCR § 599.500, subdivisions (t)-(v)

These subdivisions require technical amendments to re-letter current § 599.500, subdivisions (t) through (v) to § 599.500, subdivisions (u) through (w), respectively. The content remains unchanged.

Amendment to Title 2, CCR § 599.501, subdivision (a)

CCR § 599.501, subdivision (a) currently requires employees, annuitants, or family members enrolled in Part A and B of Medicare to enroll in a Medicare supplemental plan provided by the same carrier as family members enrolled in a basic plan. Amendments to this subdivision remove the requirement that the Medicare supplemental plans be provided by the same carrier providing coverage for family members enrolled in a basic plan.

Amendment to Title 2, CCR § 599.502, subdivisions (f), paragraph (6)(E)

CCR § 599.502, subdivision (f), paragraph (6)(E) allows an employee or annuitant enrolled in a Supplemental plan who moves out of the United States to change their enrollment to a basic plan provided by the carrier of the supplemental plan. The amendment would allow an employee or annuitant who is enrolled in a supplemental plan that moves out of the United States to change their enrollment to a basic plan with any carrier that provides coverage outside the United States.

Amendment to Title 2, CCR § 599.502, subdivision (g), paragraph (4)

CCR § 599.502, subdivision (g), paragraph (4) would clarify that employees, annuitants, and family members must all enroll in either a basic or supplemental plan unless eligibility rules prescribe otherwise. If the eligibility rules prescribe otherwise, then those employees, annuitants, and family members eligible to enroll in a basic plan must all enroll in the same basic plan and those employees, annuitants, and family members eligible to enroll in a supplemental plan must all enroll in the same supplemental plan. The supplemental plan can be offered by the same or different

carrier than what is offered for the basic plan for these enrollments. The proposed regulations further specify that all enrollments shall be under the name of only one employee or annuitant. Moreover, the proposed regulations delete a current requirement in provisions governing minimum standards for health benefit plans in order to accommodate CalPERS ability to contract with supplemental plans not affiliated with a basic plan.

Addition of Proposed Title 2, CCR § 599.502, subdivision (g), paragraph (5)
CCR § 599.502, subdivision (g), paragraph (5) is created as a technical amendment by separating a portion of current CCR § 599.502, subdivision (g), paragraph (4). This portion of the current CCR § 599.502, subdivision (g), paragraph (4) states that when an employee or annuitant submits more than one enrollment form, the latter form is used for the enrollment. This technical amendment would separate this enrollment requirement from the definition of one plan.

Amendment to Title 2 CR § 599.508, subdivision (a), paragraph (3)
CCR § 599.508, subdivision (a), paragraph (3) requires health benefits plans to provide coverage for enrolled employees, annuitants, and family members in order to be approved or adopted by the Board. Staff proposes an amendment to remove the carrier requirement, thus deleting paragraph (3). Subdivision (a) remains unchanged.

BENEFITS/RISKS

Currently, CalPERS achieves member and employer savings by moving members from a basic benefit plan to a Medicare supplement plan. The initiatives for encouraging competition also pertain to the provision of benefits under supplemental plans. If CalPERS is given additional flexibility to offer health plans under more flexible plan designs, it can:

- Seek administrators with a larger pool that can leverage their size to get better prices;
- Reduce administrative costs associated with offering many small plans with low enrollment due to carrier requirements;
- Extend the ability to offer more innovative and differentiated plan offerings that best meet Medicare enrollees' needs, and;
- Recommend Medicare plans to out of State members at a lower cost.

Potential negative impacts to providing more flexible plan designs may include:

- Impacts to My|CalPERS.

ATTACHMENT

Updated Options for Medicare Supplement Plans Draft Regulations

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