



Agenda Item 5

September 16, 2014

ITEM NAME: Proposed Regulations – Parent-Child Relationship

PROGRAM: Health Benefits

ITEM TYPE: Action

RECOMMENDATION

Approve the initiation of the regulatory process to clarify health enrollment eligibility standards for a parent-child relationship.

EXECUTIVE SUMMARY

Staff recommends the California Public Employees' Retirement System (CalPERS) Board of Administration approve the initiation of the regulatory process to clarify health enrollment eligibility standards for a Parent-Child Relationship (PCR). A PCR is defined in The Public Employees' Medical and Hospital Care Act (PEMHCA) at § 599.500, subsection (o) as "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)." (Note: PCRs do not include foster children.)

Upon enrolling a family subscriber in the CalPERS Health Benefits Program, PEMHCA requires subscribers to provide a marriage certificate for a spouse, or a declaration of domestic partnership for a domestic partner. PEMHCA regulations stipulate that coverage for a newborn or adopted child begins on the date of birth or of physical custody; however, the regulations for PCRs do not stipulate clear and concise enrollment eligibility criteria and are not clear as to what type of documentation is necessary to confirm the existence of a subscriber's parental role within a PCR. To create clear guidelines for employers and subscribers to follow, staff recommend making regulatory changes to PEMHCA to specify the types of documentation a subscriber must submit to verify a PCR.

STRATEGIC PLAN

This agenda item supports Goal A: Improve long-term pension and health benefit sustainability by implementing new approaches and expanding efforts already proven to reduce health care costs and improve health outcomes.

BACKGROUND

In March 2012, the Board approved the Dependent Eligibility Verification (DEV) project as part of the 21 Health Benefits Purchasing Initiatives. The purpose of the DEV project is to verify enrollment eligibility of more than 738,000 health dependents in the program to ensure our subscribers and employers are not burdened with paying the health care cost of those who do not qualify. The DEV amnesty period,

which began on April 1, 2013, and ended June 30, 2013, resulted in the voluntary removal of more than 6,700 dependents, more than 50 percent of whom were PCR dependents.

ANALYSIS

Current Practice

Among CalPERS State and contracting agency employers, staff discovered that the health enrollment approvals and standards for PCR eligibility vary greatly by agency due to a lack of clear guidelines. Throughout the DEV project, employers continue to seek clarification on approving new PCR enrollments and on what constitutes acceptable documentation to prove eligibility.

Current PEMHCA regulations allow subscribers to enroll in their CalPERS health plan a child for whom they have intentionally assumed parental status or parental duties; however, the regulations do not clearly specify the types of documentation required to certify the existence of that parental role. These subscribers sign a Parent-Child Affidavit at the time of enrollment and annually thereafter (up to the child reaching age 26), with the understanding that when requested by the employing office (i.e., the employer or CalPERS), they must provide necessary supporting documentation to certify that PCR.

When completing the Parent-Child Affidavit, subscribers are instructed to check a box next to *any applicable statement* listed in the affidavit, confirming one of the following:

- They have assumed a primary custodial role for this child.
- They are considered the primary care parent.
- They have assumed responsibility for providing essential needs for this child, such as food, shelter, clothing, and education.
- They are listed as the primary contact on school, health, and emergency forms.
- They provide parental permission for the child regarding health care services, school, extracurricular, and other activities.
- They claim the child as a dependent for income tax purposes.

It is then at the employing office's discretion to approve or deny the affidavit and review the various supporting documents submitted by the subscriber. The lack of clear guidelines for CalPERS 1,200+ contracting agencies and State departments is evidenced and highlighted by the number of voluntary parent-child dependent disenrollments that occurred during the DEV amnesty period and in the overall decrease of PCRs since the project's inception. On March 1, 2013, the number of enrolled PCRs totaled 22,094. To date, that number has dropped by more than 50 percent. Many of these subscribers have been unable to prove existence of a parental role through a recent document indicating their financial and parental responsibility for the child during the DEV verification period. Another contributing factor to the decrease is CalPERS parallel (yet separate) effort to recertify parent-child relationships.

Government Code section 22775 of PEMHCA allows the CalPERS Board to prescribe age limits and “other conditions and limitations pertaining to children;” however, existing regulations do not speak to eligibility rules for PCRs. The current parent-child enrollment process CalPERS administers is not prescriptive; thus, parent-child enrollment eligibility is dependent upon the individual interpretation of each Health Benefits Officer (HBO) processing the enrollment.

Other Existing Practices

CalPERS staff researched various enrollment and documentation requirements to gauge where CalPERS stands in its policies for dependents who fall outside of the traditional definition of a child. The following agencies were examined: the federal Office of Personnel Management (OPM), the agency responsible for administering health care benefits for federal government employees, and the University of California (UC) system.

For parent-child dependents, OPM requires subscribers to provide a signed certification indicating regular and substantial support of the parent-child dependent. Parent-child relationship dependents and foster children are eligible for coverage upon the subscriber providing documentation of regular and substantial support of the child, *in addition* to signing a certification that his/her dependent meets all of the following criteria:

- The child must be under age 26.
- The child must currently live with the employee.
- The parent-child relationship must be with the employee, not the child's biological parent.
- The employee must currently be the primary source of financial support for the child.
- The employee must expect to raise the child to adulthood.

While the eligibility requirements do not specifically call out PCRs, the UC system states that eligible children include those who are natural, step and adopted. Grandchildren are also eligible so long as the grandchild is of the employee/retiree, and the child is:

- Under age 26
- Unmarried
- Living with the subscriber
- Dependent on the subscriber for 50% or more of his/her support
- Claimed as a dependent for income tax purposes

BUDGET AND FISCAL IMPACTS

Implementing these regulatory changes can result in significant ongoing savings in health care costs and contributions by the State and contracting agency employers. There is minimal impact on CalPERS budget as a result of this proposal.

BENEFITS/RISKS

There is minimal risk to CalPERS for implementing language to clarify health enrollment eligibility standards for a PCR. Currently, there is a lack of direction for

CalPERS 1,200+ contracting agencies and State departments. The intent of the proposed regulations is to create clear rules for employers and subscribers to follow regarding the specific types of documentation required to prove the existence of a parental role in the PCR.

The potential benefits of initiating the regulatory process to clarify health enrollment eligibility standards for a PCR are:

- Elimination of employer confusion and individual interpretation related to what constitutes an eligible PCR dependent
- Clear, accurate, and streamlined guidelines for employers to follow to verify dependent eligibility
- Reduced potential for ineligible dependents enrolled in a CalPERS health plan
- Possible reduction in employer share for health premium contributions (State and contracting agencies) for ineligible dependents
- Affirmation of the Board's fiduciary responsibility in managing overall health costs for all subscribers, contracting employers, and the State by ensuring that only eligible dependents remain enrolled in our health plans.

NEXT STEPS

Upon receiving Board approval to initiate the regulatory process, staff will submit the regulatory package to the Office of Administrative Law for posting in the California Regulatory Notice Register with a 45-day public comment period. If there are no substantial changes to the regulatory language as a result of public comments, staff will return to the Board with an action item requesting adoption of the final proposed regulatory language.

ATTACHMENTS

Attachment 1 – Addition to Title II of the California Code of Regulations

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