



## Agenda Item 5

August 18, 2015

**ITEM NAME:** Adoption of Proposed Regulations – Parent-Child Relationship

**PROGRAM:** Health Benefits

**ITEM TYPE:** Action

### **RECOMMENDATION**

Approve staff's recommendation to adopt the proposed regulations and *Affidavit of Parent-Child Relationship* (Affidavit), which clarify health enrollment eligibility standards for a Parent-Child Relationship (PCR).

### **EXECUTIVE SUMMARY**

Staff recommends the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) adopt the proposed regulations and approve the Affidavit. These regulations would clarify PCR health enrollment eligibility standards for both employers and members, and provide our employers clear authority to require health plan subscribers to submit specific documents, in addition to the Affidavit, that substantiate their parental role within that PCR.

### **STRATEGIC PLAN**

The adoption of the proposed PCR regulations supports CalPERS Strategic 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 September 2014, the Board approved commencement of the regulatory process to clarify health enrollment eligibility standards for a PCR. After submitting the package to the Office of Administrative Law (OAL) and publishing it online for a 45-day comment period (November 7 – December 22, 2014), staff returned to the Board in February 2015 requesting approval to adopt the proposed PCR regulations.

After receiving Board approval, staff submitted the regulations package to OAL for review in April 2015. OAL recommended minor revisions to the regulatory language, and required that the Affidavit be included in the regulatory package. Per OAL's direction, these documents were posted online for a 15-day public comment period (April 28 – May 13, 2015). Upon completion of its review in May 2015, OAL requested a number of changes be made to the regulations and the Affidavit to better align the language in those two documents. Staff clarified and confirmed the requested

changes with OAL and our Legal Office; and reconciled and implemented OAL's changes, as outlined below.

- Removed the terms "clearly and conclusively," and "economic/ally" from both the regulatory text and the Affidavit.
- Revised the reference for the two age groups in subsections (A) and (B) of the regulatory text to be consistent with Section C of the Affidavit.
- Revised the regulatory text requiring a tax return "from the previous tax year" (as opposed to "the most recent tax return") to mirror the Affidavit.
- Collectively named other documents listed in the Affidavit that could substantiate financial dependence for PCR dependents under age 19 "Other Suitable PCR Documentation" for concise reference and consistent application to the 19 to 26 age group.
- Revised the criteria related to residency, student status, and financial support for the 19 to 26 age group in Section C of the Affidavit to be consistent with that of subsection (B) of the regulatory text.

After making these changes, staff posted the documents online for another 15-day public comment period (June 29 – July 14, 2015). See below for additional information on and activity during public comment periods.

#### Public Comment Periods

The initial 45-day written comment period for the proposed regulatory action began on November 7, 2014 and ended on December 22, 2014. CalPERS did not receive any written comments.

A subsequent 15-day public comment period was held from April 28 – May 13, 2015, to incorporate the Affidavit as part of the regulatory package, and identify minor modifications to the regulatory text. CalPERS received two public comments via email.

The first comment was received on May 5, 2015, from the City of Pasadena. A staff member inquired about acceptable documentation for newborns in a PCR and also stated that further guidance would be appreciated. CalPERS explained in a letter that the proposed regulations would allow employees and annuitants to provide other documents in lieu of a tax return for a period of one tax filing year. CalPERS gave examples of documents employees can submit for newborns for immediate coverage, and stated that PCR enrollment guidance is forthcoming.

On May 12, 2015, CalPERS received an email from a Benefit Analyst from the California State Polytechnic University at San Luis Obispo. The inquiry regarded the Affidavit not mentioning a domestic partner child and whether they need a form filled out on their behalf. CalPERS responded via email that per Government Code section 22775, a family member includes an employee or annuitant's spouse or domestic partner, and any child, including an adopted, step or recognized natural child.

Further, a domestic partner child would either be enrolled as a “natural born child” or as a “domestic partner child” per the State Employer Health Benefits Guide for 2015.

These comments did not warrant changes to the proposed regulatory text or the Affidavit.

The most recent 15-day public comment period ran from June 29 to July 14, 2015, to publish clarifying revisions made to the Affidavit and regulatory text, as recommended by OAL. CalPERS did not receive any written comments during this time.

#### Public Hearing

Pursuant to Government Code § 11346.8, subdivision (a), CalPERS provided notice in the regulations package that any interested person could submit a written request for a public hearing, to the CalPERS Regulation Coordinator, no later than 15 days prior to the close of the written comment period, or by December 7, 2014. CalPERS did not receive any requests for a public hearing; therefore, one was not scheduled.

#### Next Steps

Should the Board adopt the changes to the proposed regulatory text and the Affidavit, the CalPERS Regulations Coordinator will forward the final rulemaking file to OAL for its 30-day review period. If OAL approves the rulemaking file, they will forward to the Secretary of State for filing and publication in the California Code of Regulations. Due to the quarterly effective dates imposed upon rulemaking files, full implementation of the newly clarified PCR enrollment criteria is slated for January 1, 2016.

### **BUDGET AND FISCAL IMPACTS**

Implementing these regulatory changes could 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**

The potential benefits of adopting regulatory changes that clarify health enrollment eligibility standards for a PCR are:

- Reduced incidence of ineligible dependent enrollments.
- Possible reduction in employer share for health premium contributions (State and contracting agencies) for ineligible dependents.
- More streamlined, accurate, and clear guidelines for health plan operations and PCR criteria for both employers and members.
- Support of CalPERS' fiduciary responsibility to its members in managing overall health costs for employers, members, and the General Fund.
- Elimination of ambiguity for both members and employers as to who is eligible and who is not eligible for coverage under a PCR.

There is minimal risk to CalPERS for implementing language to clarify health enrollment eligibility standards for a PCR. Currently, the types of documents necessary to confirm the existence of a PCR are not clearly defined 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.

**ATTACHMENTS**

Attachment 1 – Parent-Child Relationship Regulatory Language

Attachment 2 – Affidavit of Parent-Child Relationship

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