



Pension and Health Benefits Committee

Agenda Item 6a

April 16, 2019

Item Name: Proposed Revisions to the Public Employees' Medical and Hospital Care Act Regulations: Timeframes for Filing Appeals

Program: Health Benefits

Item Type: Action

Recommendation

Approve revisions to Section 599.518 of the Public Employees' Medical and Hospital Care Act (PEMHCA) Regulations to allow extensions to the timeframes for an Administrative Review of an adverse health benefit determination upon a showing of good cause.

Executive Summary

Under PEMHCA, California Public Employees' Retirement System (CalPERS) members may appeal an adverse benefit determination by their Health Benefit Plan. Currently, however, PEMHCA, only explicitly permits timeframe extensions to submit a request upon a showing of good cause for Administrative Hearings, but not for CalPERS' Administrative Review of the appeal. The revisions to the Regulation will explicitly permit an extension for the Administrative Review timeframes as well.

Strategic Plan

This item is not a specific part of the Strategic Plan but is part of the regular and ongoing workload of the Health Policy and Benefits Branch. The agenda is presented to the Board based on staff analysis that permitting an extension to the 30-day period for members to request an Administrative Review in extenuating circumstances would better align with processes already in place for Administrative Hearings and would improve member service.

Background

Subdivision (d)(1) of Section 599.518 of the PEMHCA Regulations, which refers to Administrative Reviews, states, "[a] request for administrative review must be filed with the unit charged with the processing and oversight of health appeals within thirty (30) days of the date the employee or annuitant receives a decision from an appeals process described in subsection (b) or (c)."

In contrast, relevant language within the same Regulation regarding Administrative Hearings, subdivision (e)(1), states, “[a]n employee or annuitant must request an administrative hearing in writing within 30 days of the date of the administrative review decision. The date of the administrative review decision will be indicated on the written notification the unit charged with the processing and oversight of health appeals is required to send to the employee or annuitant pursuant to subsection(d)(2). **Upon satisfactory showing of good cause, CalPERS may grant additional time to file a request for an administrative hearing, not to exceed thirty (30) days.**” [emphasis added]

There does not seem to be a good reason why the bolded language in subdivision (e)(1) isn’t also in subdivision (d)(1) and may have been an oversight by the original drafters.

Analysis

Under the above language, it isn’t clear whether CalPERS can accept appeal requests for Administrative Reviews beyond the 30-day timeframe, even in circumstances that are beyond a member’s control. Furthermore, this language is inconsistent with language in the Administrative Hearing subdivision of the Regulation, which does permit extensions due to extenuating circumstances such as an inability to file for causes beyond the employee or annuitant’s control or acts of nature.

Options considered by CalPERS:

- Revise the Regulation to allow CalPERS to accept members requests for an Administrative Review beyond the 30-day timeframe upon a showing of good cause.
 - This would remove ambiguity from the Regulation and make similar subdivisions more consistent and complimentary.
 - Affords CalPERS discretion to alter timeframes where the evidence shows the delay is outside the control of the member. This improves CalPERS’ processes by creating flexibility and enhances service to members.
- Leave the regulation as is.
 - May prohibit CalPERS from granting extensions to Administrative Review timeframes that are beyond a member’s control, and potentially creates an inconsistency between the timeframe processes for Administrative Reviews and Administrative Hearings.

Budget and Fiscal Impacts

There may be a nominal increase in staff time and resources should this regulatory revision lead to more Administrative Reviews.

Benefits and Risks

- The benefit is a clearer, more consistent Regulation that provides CalPERS the ability to extend timeframes for Administrative Review submissions for reasons that are outside of the control of the member. An additional benefit is that CalPERS can better harmonize and make consistent Administrative Review and Administrative Hearing language within the Regulation and other applicable publications like Evidence of Coverage booklets.

- The number of Administrative Reviews could increase beyond anticipation, burdening staff time and resources. However, the requirement that any extension be based on good cause minimizes the likelihood of a large increase in the number of Administrative Reviews.
- The proposed revision may not be approved by the Office of Administrative Law.

Attachments

Attachment 1 – California Code of Regulation 599.518 – Proposed Regulation Change

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