



Pension and Health Benefits Committee

Agenda Item 4b

November 19, 2019

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

Program: Health Benefits

Item Type: Action Consent

Recommendation

Approve staff's recommendation to revise Section 599.518 of the Public Employees' Medical and Hospital Care Act (PEMHCA) Regulations to allow the California Public Employees' Retirement System (CalPERS) to grant an extension to the timeframes for submitting a request for an Administrative Review of an adverse health benefit determination, upon a showing of good cause.

Executive Summary

Staff recommends that the CalPERS Board of Administration (Board) adopt the proposed regulation amendment. The revision will explicitly permit an extension for the Administrative Review submission timeframes, similar to the Administrative Hearings.

Strategic Plan

This item does not support specific component of the Strategic Plan; however, it supports 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 align with processes already in place for Administrative Hearings and would improve member service.

Background

In April 2019, staff obtained Board approval to proceed with the draft regulation amendment to remove ambiguity from the Regulation and make similar subdivisions more consistent and complimentary. It will afford CalPERS the 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. 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.

CalPERS staff submitted the Board-approved regulation amendment package to the Office of Administrative Law (OAL) on June 20, 2019. A Notice of Proposed Regulatory Action was published in the California Regulatory Notice Register 2019, Notice File Number Z2019-0618-04, on June 28, 2019. CalPERS also posted the regulations package on its website on June 28, 2019.

Public Comment Period

The 45-day written comment period for the proposed regulatory action began on June 28, 2019, and ended at 5:00 p.m. on August 12, 2019. CalPERS did not receive any written comments.

Next Steps

Should the Board adopt the proposed regulations, the CalPERS Regulation Coordinator will forward the final rulemaking file to OAL for review and approval. If OAL approves the regulations, the rulemaking file will be forwarded to the Secretary of State (SOS) for filing and publication in the California Code of Regulations. Staff will request that the regulations become effective January 1, 2020, upon filing with the SOS.

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

- 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.
- 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.
- Some members may have an opportunity for CalPERS to review their appeal that they would not otherwise have had the opportunity.

- 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.

Attachments

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

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