



Circular Letter

California Public Employees' Retirement System
P.O. Box 942714
Sacramento, CA 94229-2714
(916) 326-3970
Telecommunication Device for the Deaf
No Voice (916) 326-3240

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Special:

TO: Health Benefit Officers And Assistants of the State, California State University and Contracting Public Agencies

SUBJECT: Health Insurance Portability and Accountability Act (HIPAA)

On August 21, 1996, President Clinton signed into law the Health Insurance Portability and Accountability Act (HIPAA). The focus of HIPAA is on the portability of health insurance. The requirements of HIPAA take effect **January 1, 1998**, and change enrollment practices and policies for employees and family members eligible to enroll in a CalPERS-sponsored health plan.

These changes do not eliminate or alter current enrollment rules and procedures, with the exception of the **elimination of the Health Statement**, which is replaced with "**Special Enrollment**" and "**Late Enrollment**" periods. These enrollment periods allow employees and their dependents new specific opportunities to enroll in the CalPERS Health Benefits Program. **In all instances, the employee and dependent must be eligible for enrollment in a CalPERS-sponsored health plan as defined by Part 5, The Public Employees' Medical and Hospital Care Act (PEMHCA).**

The changes are briefly described below. Additional instructions are enclosed with this package.

I. Declaration of Health Coverage (HB-12A) (Instruction Package A)

The **Declaration of Health Coverage** provides information on enrollment options and consequences for nonenrollment. Beginning January 1, 1998, each employee **must** sign the HB12A when they are **first eligible** to enroll or when they make **any change** to their health coverage. This includes Open Enrollment changes, changing health plans when moving; adding or deleting a dependent, or canceling health benefits. You must provide the HB-12A at the time the employee requests enrollment or with the Health Benefit Plan Enrollment (HBD-12) form. You also must provide the employee a copy of the signed form and keep the original in the employee's file. **Do not send a copy to the Health Benefit Services Division.**

II. Special Enrollment

A. Enrollment Decisions After January 1, 1998 (Instruction Package B1)

On or after January 1, 1998, employees' who were not provided written notice by the employer of the consequences of **declining or canceling** coverage are eligible to enroll. The effective date of enrollment is the first of the month following receipt of the request to enroll.

B. Loss of Other Coverage (Instruction Package B2)

If an employee **declines or cancels** enrollment for self or dependents because of other coverage (employer sponsored or other insurance coverage), they can enroll when the other coverage is no longer available. Loss of other coverage is defined as:

- Termination of employment of the individual through whom the employee or dependent was covered;
- Termination of the other plan's coverage;
- COBRA continuation coverage has been exhausted;
- Cessation of an employer's contribution toward employee or dependent coverage; or
- Death, divorce, or legal separation of a person through whom the employee or dependent was covered

The employee may request **enrollment for self or self and all eligible family members**. The request must include proof of loss of other coverage¹ and be received within 60 days after the other coverage ends. The effective date is the first of the month following the request to enroll.

C. Non-Enrolled Employee Acquiring a Dependent or Enrolled Employee's Non-Enrolled Spouse (Instruction Package B3)

If an employee **declines or cancels** enrollment or an **enrolled employee declines or cancels enrollment for spouse** and later acquires a dependent as a result of marriage, birth, adoption, or placement for adoption, they can enroll self or self and all newly eligible dependents. The request must be received within 60 days of acquiring the dependent. The effective date is:

- Marriage, the first of the month following request to enroll.
- Birth, the first of the month following request to enroll².
- Adoption or placement for adoption, the first of the month following request to enroll³.

The employee may request **enrollment for self or self and all eligible family members**. The request must include proof of loss of other coverage⁴ and be received within 60 days after the other coverage ends. The effective date is the first of the month following the request to enroll.

D. Court-Ordered Coverage (Package B4)

1. **Child of an enrolled employee:** A court has ordered coverage be provided for a child under an **enrolled** employee's health plan. If the employee's current health plan has a restricted geographical service area and is not available in the child's residential area, the employee must change to a health

plan that will cover the child. If the employee refuses to change health plans, the **employer must** enroll the employee and dependent child in PERS Choice. The effective date is the first of the month following receipt of the court order.

2. **Child of a nonenrolled employee:** A court has ordered coverage be provided for a child under a **nonenrolled** employee's health plan. The employee can enroll in a health plan available in the child's residential area. If the employee refuses to enroll, the **employer must** enroll the employee and child in PERS Choice. The effective date is the first of the month following receipt of the court order.
3. **Spouse of an enrolled employee:** A court has ordered that coverage be provided for a spouse under an **enrolled** employee's health plan. If the employee's current health plan has a restricted geographical service area and the health plan is not available in the spouse's residential area, the employee must change to a health plan that will cover the spouse. The effective date is the first of the month following receipt of the court order.

III. Late Enrollment (Instruction Package C)

Employees who **decline or cancel** enrollment for self or dependents (including spouse) and who do not qualify for a "Special Enrollment" may enroll during Open Enrollment, or at **any time** may request enrollment as a **Late Enrollee**. Employees who request **Late Enrollment** for self or dependents must normally wait 90-days before they are enrolled in a CalPERS-sponsored health plan. The effective date is the first of the month following the 90-day waiting period or the Open Enrollment effective date, whichever comes first.

IV. Certification of Group Health Plan Coverage

HIPAA requires that employees and their dependents receive a **Certification of Group Health Plan Coverage** when health coverage terminates. Health plans contracting with CalPERS will be responsible for providing a **Certification of Group Health Plan Coverage** when enrollees, or dependents who were covered under the plan, lose coverage. The **Certification of Group Health Plan Coverage** will be mailed to the enrollee's last known address, and will be provided when:

- An individual ceases to be covered under the plan and has a right to elect COBRA continuation coverage;
- An individual ceases to be covered under the COBRA continuation provisions; or
- A request is made by an individual not later than 24 months after the date of cessation of coverage.

Health plans will issue certifications for termination of health plan coverage occurring after June 1, 1996, in three categories:

- Individuals who terminated coverage from June 1, 1996 through September 30, 1996. The plan will provide a prior coverage certificate for anyone in this category upon receipt of a written request from the former enrollee.

- Individuals who terminated coverage from October 1, 1996 through May 31, 1997. The plans began producing certificates on June 1, 1997.
- Individuals who terminated coverage on June 1, 1997. The plan will produce certificates within 30 days of the individuals' loss of coverage.

CalPERS is committed to providing timely and accurate information. Implementation of HIPAA is an evolving process and may be amended with further clarification issued by federal regulators. If you have any questions in regard to this material, please contact our office at 800/237-3345.

/S/

Fred Steinmetz, Chief
Health Benefit Services Division

Enclosures

¹ Instruction Package B2 provides some examples.

² Coverage for the child is effective from the date of birth.

³ Coverage for the child is effective from the date of adoption or date of placement.

⁴ Instruction Package B2 provides some examples.

Package A

Declaration of Health Coverage (HB-12A)

INFORMATION FOR HEALTH BENEFIT OFFICERS

- **ALL EMPLOYEES** must sign the **Declaration of Health Coverage (HB-12A)** *when they are first eligible to enroll in the Health Benefits Program or when they make ANY change to their health coverage. The HB-12A should be completed along with the Health Benefit Plan Enrollment Form (HBD-12) and the original kept in the employee's personnel file.
- If the **employer cannot produce** a signed copy of the **Declaration of Health Coverage** for an employee who declined or canceled coverage on or after January

1, 1998, the **employee can enroll** in a CalPERS-sponsored health plan or add dependents at any time, without meeting the requirements of a Special Enrollment, the Late Enrollment 90-day waiting period, or waiting for Open Enrollment.

- If an employee refuses to sign the **Declaration of Health Coverage**, the HBO must line through the form and write "Employee refused to sign". The HBO (or designee) must sign and date the form, and place it in the employee's personnel file.

*The Declaration of Health Coverage (HB-12A) is not available through CalPERS Central Supply. Please use the form attached to make copies for your use.

Package B1

Special Enrollment Enrollment Decisions After January 1, 1998

An eligible but not enrolled employee or a non-enrolled dependent of an enrolled employee can enroll in a CalPERS-sponsored health plan if the employer cannot produce a Declaration of Health Coverage (HB-12A). The HB-12A provides the employee with written notice of the consequences of **declining or canceling** CalPERS-sponsored coverage when other coverage is available.

Note: This only applies to employees who declined or canceled enrollment or deleted a dependent on or after January 1, 1998.

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
Employer cannot produce a Declaration of Health Coverage showing employee was aware of the consequences of non-enrollment.	05b or 17 or 21	Date employee requests enrollment	Anytime	1 st of the month following submission of the enrollment form HBD-12 to the employing office.	HBD-12 Box 35 Remarks: HIPAA NO DOC.

Package B2

Special Enrollment Loss of Other Coverage

An eligible but not enrolled employee or eligible but not enrolled dependents of an **enrolled employee** are allowed to enroll in the CalPERS Health Benefits Program when they lose other health insurance coverage if:

- The employee disclosed on the Declaration of Health Coverage (HB-12A) that the reason for declining coverage for themselves or their eligible dependents was other health insurance coverage, **and**
- The employee provides proof of loss of other health insurance coverage or cessation of employer contribution towards the employees or dependents health coverage¹, **and**
- The employee requests to enroll within 60 days from the date of loss of the other coverage.

¹The Health Benefits Officer must verify that an individual lost other health insurance coverage. Any documentation which shows loss of coverage is acceptable. **Do not send verification documents to the Health Benefit Services Division**

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
<p>Eligible but not enrolled employee loses other health insurance coverage</p> <p>Employee can enroll for self only, or for self and all eligible dependents.</p>	05b	Date employee loses other health insurance coverage.	60 days from the loss of coverage.	1 st of the month following submission of the enrollment form HBD-12 to the employing office.	HBD-12 Box 35 Remarks: HIPAA Loss of Other Coverage.

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
Enrolled employee's non-enrolled dependent loses other health coverage. Employee can enroll all eligible dependents.	17 or 21	Date dependent loses other health insurance coverage.	60 days from the loss of coverage.	1 st of the month following submission of the enrollment form HBD-12 to the employing office.	HBD-12 Box 35 Remarks: S/E Loss of Other Coverage.

LOSS OF HEALTH INSURANCE COVERAGE INCLUDES:

1. Loss of eligibility due to:
 - Termination of employment of the individual by whom he or she was covered as a dependent;
 - Reduction in employment hours of the individual by whom he or she was covered as a dependent;
 - Divorce;
 - Legal separation,
 - Death of a person by whom the individual was covered as a dependent;
 - Exhaustion of COBRA continuation coverage, and;
 - Similar losses.
2. Termination of employer-sponsored health insurance coverage.
3. Termination of the other plan's coverage (e.g., the plan ceases doing business in the state). Or
4. Cessation of an employer's **full** contribution towards employee or dependent health coverage.

Loss of health insurance coverage does not include termination when the individual fails to pay premiums or termination of coverage for cause (such as making a fraudulent claim or an intentional misrepresentation of a material fact in connection with the plan).

OTHER HEALTH INSURANCE COVERAGE INCLUDES:

1. Health coverage offered through employment or sponsored by an employer, or
2. Any group or individual policy or contract that provides medical, hospital, and surgical benefits.

Health insurance coverage includes Medicare, Medi-Cal (Medicaid), an individual policy, COBRA continuation coverage, or any similar health insurance coverage. It does not include accident only, disability income, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or disease-specific policies.

PROOF OF LOSS OF COVERAGE INCLUDES:

1. A letter from an employer stating:
 - the individual is ineligible for health insurance coverage,
 - the employer is terminating employer-sponsored health coverage, or
 - the employer is terminating full employer contribution towards employee or dependent health coverage.
2. A document showing the individual is terminating employment and proof that the individual was enrolled in an employer-sponsored health plan, such as a pay-stub.
3. COBRA continuation eligibility letter.
4. A Certificate of Group Health Plan Coverage (Certificate of Creditable Coverage) issued by an employer or a health insurance company.
5. A letter from a health insurance company stating the individual is losing health insurance coverage or has exhausted COBRA continuation coverage.
6. Any other document proving the individual lost health insurance coverage.

Package B3

Special Enrollment Non-Enrolled Employee Acquiring A Dependent or Enrolled Employee's Non-Enrolled Spouse

An **eligible but not enrolled** employee can enroll in a CalPERS-sponsored health plan if the employee acquires a new dependent through marriage, birth, adoption or placement for adoption. The employee can enroll **self or self and all eligible dependents**. The employee has 60 days from the date of the event to request enrollment.

An **enrolled employee's non-enrolled spouse** may enroll when the employee acquires a dependent through birth, adoption, or placement for adoption. The employee can enroll spouse, newly acquired dependent, and all other eligible dependents.

Special Enrollment for a non-enrolled employee, due to acquiring a new dependent, does not change current rules and procedures for enrolled employees adding eligible dependents in other situations (e.g.; adding newly eligible spouse or stepchildren due to marriage or adding a miscellaneous dependent child when the employee assumes a parenting role).

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
Eligible but not enrolled		Date employee		1 st of the month	

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
employee acquires a new dependent. Employee can enroll for self only, or for self and all eligible dependents.	05b	acquires the dependent through marriage, birth, adoption or placement for adoption.	60 days from the date of acquisition.	following submission of the enrollment form HBD-12 to the employing office.	HBD-12 Box 35 Remarks : S/E Non-Enrolled Employee-Acquiring A Dependent.
Enrolled employee's spouse is not enrolled and the employee acquires a new dependent through birth, adoption, or placement for adoption. Employee can enroll spouse and all other eligible dependents.	19 or 22 or 17 or 21 (This may require multiple forms.)	Date employee acquires the dependent through birth, adoption or placement for adoption.	60 days from the date of acquisition.	1 st of the month following submission of the enrollment form HBD-12 to the employing office.	HBD-12 Box 35 Remarks : S/E Enrolled Employee Acquiring A Dependent

Package B4

Special Enrollment Court Ordered Coverage

Note: A court order may be ordering the employer or employee to provide coverage. The employer must enroll a child or spouse when the court order is presented in the employing office.

Special Instructions: If the employee refuses to enroll or change to a health plan that is available in the child's or spouse's residential area and the court has not ordered coverage by a specific plan, the employer shall enroll the employee and the child or spouse in PERS Choice.

A court orders coverage be provided to the child of an enrolled eligible employee.

- If the employee is enrolled in a health plan, the child must be added to the employee's health plan.
- If the enrolled employee's current health plan has a restricted geographical service area and the health plan is not available in the child's residential area, the employee

must change to a health plan that will cover the child.

- The effective date of coverage is the first of the month following receipt of the court's order by the employing office.

A court orders coverage be provided for a child under a non-enrolled employee.

- If the employee is not enrolled in a health plan, the employee and the child must be enrolled without regard to any enrollment period restrictions.
- The effective date of coverage is the first of the month following receipt of the court's order by the employing office.

A court orders coverage be provided for a spouse under a covered employee's health plan.

- The spouse must be added to the employee's health plan.
- If the employee's current health plan has a restricted geographical service area and the health plan is not available in the spouse's residential area, the employee must change to a health plan that will cover the spouse.
- The effective date of coverage is the first of the month following receipt of the court's order by the employing office.

Once a child or spouse is enrolled by court order, they can only disenroll if:

- The employee becomes ineligible for group-sponsored health benefits, **or**
- The employer eliminates health insurance coverage for all employees, **or**
- The dependent becomes ineligible for enrollment, such as the employee and spouse divorce or the child turns age 23, marries, **or**
- The employer is provided with satisfactory written evidence that the court order is no longer in effect or is terminated, or the child is or will be enrolled in comparable health insurance coverage through another insurer that will take effect not later than the effective date of the child's disenrollment.

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
<p>Court orders health coverage for a child of an enrolled employee The employee must enroll in a health plan which will</p>	<p>16 (adding child) and/or 34 (changing</p>	<p>Date the court's order is received in the employing office</p>	<p>Anytime</p>	<p>1st of the month following submission of the court's order to the employing</p>	<p>HBD-12 Box 35 Remarks:Court Ordered Coverage.</p>

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
provide coverage for the child.	plan)			office	
Court orders health coverage for a child of a non-enrolled employee. The employee must enroll in a health plan which will provide coverage for the child.	05B	Date the court's order is received in the employing office	Anytime	1 st of the month following submission of the court's order to the employing office	HBD-12 Box 35 Remarks : Court Ordered Coverage.
Court orders health coverage for a spouse. The employee must currently be enrolled. The health plan must provide coverage for the spouse.	17 or 21 &/or 34 (changing plan)	Date the court's order is received in the employing office	Anytime	1 st of the month following submission of the court's order to the employing office	HBD-12 Box 35 Remarks : Court Ordered Coverage.

Package C

Late Enrollment

An eligible employee and his or her dependents can request enrollment in a CalPERS-sponsored health plan at any time. If the employee or dependents do not qualify for a Special Enrollment Period, or any other enrollment event allowed under PEMHCA, the employee can request **Late Enrollment**. As a **Late Enrollee**, the individual must wait normally 90-days from the date the request to enroll was received in the employing office. The effective date of coverage is the first of the month following the 90-day waiting period.

Note: If the employee requests Late Enrollment during the Open Enrollment Period, the effective date will be either the first of the month following the 90-day waiting period or the Open Enrollment effective date, which ever is sooner.

Description of Event	Permitting Event Code	Permitting Event Date Box 15	Time Limit Within Which Request Must Be Made	Effective Date Of Action	Instructions
Employee or dependents declined or canceled enrollment and do not qualify for a Special Enrollment Period or PEMHCA permitting event.	05b 17 or 21	Date the request to enroll is received in the employing office.	Anytime	1 st of the month following the 90-day waiting period.	HBD-12 Box 35 Remarks: Late Enrollment