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# Circular Letter

Special:

TO: CONTRACTING AGENCY HEALTH BENEFIT OFFICERS AND  
ASSISTANT HEALTH BENEFIT OFFICERS

SUBJECT: COMPLIANCE WITH GOVERNMENT CODE SECTION 22934 -  
ALTERNATIVE HEALTH BENEFIT PLANS

Questions have arisen from Public Employees' Medical and Hospital Care Act (PEMHCA) contracting agencies about offering union "trust plans" alongside CalPERS health plans. Based on how these trust plans are being presented, agencies enrolled in the CalPERS Health Benefits Program are under the impression that contracting for these plans does not violate PEMHCA.

Contracting agencies offering union "trust plans" alongside CalPERS health plans are in violation of PEMHCA Section 22934. Agencies that contract for an alternative health plan are out of compliance, and will be terminated at the end of the contract year if they do not cease their alternative health plan contract.

Effective January 1, 2005, an agency contracting under the Public Employees' Medical and Hospital Care Act (PEMHCA) may not contract to offer any other health benefit plan, including collectively bargained union health and welfare trust plans, to employees eligible for enrollment in the CalPERS Health Benefits Program. This information was previously communicated in Circular Letter 600-068-02, dated November 25, 2002. CalPERS is communicating this again as some agencies are contracting with alternative health plans and unknowingly risking termination from the CalPERS Health Benefits Program.

Government Code Section 22934 is enclosed with this letter. Emphasis is provided in bold for sub-sections (a), (f) and (g) which pertain to all agencies.

Sub-sections (b) and (c) apply to a few specific agencies, sub-section (d) has expired and subsection (e) applies to those agencies "grandfathered" under subsection (b).

If your agency has established an alternative plan alongside CalPERS health plans, please contact CalPERS immediately in order to resolve this compliance issue. The CalPERS Office of Audit Services will also include Government Code Section 22934 as part of their review of CalPERS agencies. If you have questions regarding this Circular Letter, please contact Public Agency & Schools Contracts staff member, Terri McIntyre, at 916-795-3587.

Sincerely,

A handwritten signature in cursive script, reading "Holly A. Fong", written over a horizontal line.

Holly A. Fong, Chief  
Office of Employer & Member Health Services

Enclosure: Gov Code Section 22934

**Government Code Section 22934 Alternative Health Benefit Plans**  
**(emphasis added)**

22934. **(a) A contracting agency that has elected to be subject to this part may not maintain any other health benefit plan or program offering hospital and medical care for its employees.**

(b) Notwithstanding subdivision (a), a plan operating on July 1, 2002, shall be permitted to continue as long as it meets the requirements of subdivision (e). A material change in the plan, including a change in carriers, shall be permitted. Notwithstanding any other provision of this part, a contracting agency may include a dependent of an employee or retiree who is not eligible for coverage as a family member or a domestic partner, as provided in this part, if the employee or retiree is also enrolled in the alternative plan.

(c) Notwithstanding subdivision (a), a self-insured plan operating on January 1, 2003, shall be permitted to continue as long as it meets the requirements of subdivision (e). The board may extend the deadline contained in this subdivision for good cause.

(d) Notwithstanding subdivision (a), an alternative plan established by a contracting agency and approved by the board after July 1, 2002, shall be permitted to continue until December 31, 2004.

The plan may only be offered in an area in which there is no board-approved health maintenance organization or exclusive provider organization plan available for enrollment, or there is only one board-approved health maintenance organization plan available for enrollment, and that plan has less than 55 percent of the primary care physicians in its provider network available for new patients. The contracting agency shall reimburse the board for reasonable administrative expenses incurred as a result of enrollment activities outside of the system's open enrollment period caused by the creation or termination of a plan offered pursuant to this subdivision. A contracting agency providing a plan pursuant to this subdivision shall notify the board by June 1, 2004, of its intent to either terminate that plan or to terminate its participation under this part as of January 1, 2005. On or after June 1, 2004, the board may extend the termination date contained in this subdivision for a contracting agency at its discretion, based on compelling circumstances in the region in which the contracting agency is located.

(e) A plan maintained pursuant to this section shall meet and maintain the minimum standards for approved health benefit plans prescribed by the board pursuant to the requirements of this part.

**(f) An election of a contracting agency to be subject to this part is not effective prior to the termination of any health benefit plan maintained in violation of this section. The establishment of any plan thereafter in violation of this section shall terminate participation of the agency and all of its employees under this part as of the end of the contract year.**

**(g) Nothing in this part may be construed to prohibit a contracting agency from offering health plans, including collectively bargained union health and welfare trust plans, to employees and annuitants of employee groups, including collective bargaining units, if the contracting agency has not elected to provide coverage for that group under this part.**