

Office of Audit Services



Public Agency Review

Santa Clara County Health Authority

**Employer Code: 1737
CalPERS ID: 5813158737
Job Number: P11-007**

June 2013



California Public Employees' Retirement System
Office of Audit Services
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June 24, 2013

Employer Code: 1737
CalPERS ID: 5813158737
Job Number: P11-007

Santa Clara County Health Authority
David Cameron, Chief Financial Officer
210 East Hacienda Avenue
Campbell, CA 95008

Dear Mr. Cameron:

Enclosed is our final report on the results of the public agency review completed for the Santa Clara County Health Authority. Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 2 and Finding 4. Based on the information contained in your agency's response pertaining to Finding 2 and Finding 4, our recommendations remain as stated in the report. In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report.

It was our pleasure to work with your Authority and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed by Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

SANTA CLARA COUNTY HEALTH AUTHORITY

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RESULTS IN BRIEF

The California Public Employees' Retirement System (CalPERS) Office of Audit Services (OAS) reviewed the Santa Clara County Health Authority's (Authority) enrolled individuals, member compensation, retirement information and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Payrates were not listed on publicly available pay schedules.
- Employees of an affiliated entity were erroneously enrolled into CalPERS membership.
- An employee hired through a temporary employment agency was not enrolled.
- Retired annuitant with excessive rate of pay.

AUTHORITY BACKGROUND

The Authority (dba Santa Clara Family Health Plan) was established August 1, 1995 by the Santa Clara County Board of Supervisors. The Authority was created for the purpose of developing the Local Initiative Plan for the expansion of Medi-Cal Managed Care. Employment agreements and an employee benefit summary outline Authority employees' salaries and benefits and state the terms of employment agreed upon between the Authority and its employees. The Authority contracted with CalPERS effective April 4, 1999 to provide retirement benefits for local miscellaneous employees.

All contracting public agencies, including the Authority, are responsible for the following:

- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.
- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.
- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.
- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.

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SCOPE

As part of the Board approved plan for fiscal year 2011/2012, the OAS reviewed the Authority's payroll reporting and member enrollment processes as these processes relate to the Authority's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2008 through June 30, 2011. The on-site fieldwork for this review was conducted from September 6, 2011 through September 8, 2011.

This review did not include a determination as to whether the Authority is a "public agency" (as that term is used in the California Public Employees' Retirement Law), and OAS therefore expresses no opinion or finding with respect to whether the Authority is a public agency or whether its employees are employed by a public agency. The review objectives and a summary of the procedures performed are listed in Appendix B.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: Payrates were not listed on a publicly available pay schedule.

Recommendation:

The Authority should list all employee payrates on a publicly available pay schedule as required in Government Code Section 20636 and California Code of Regulations Section 570.5.

The Authority should work with Customer Account Services Division (CASD) to make the necessary adjustments to active and retired member accounts, if any, pursuant to Government Code Section 20160.

Condition:

The Authority did not have pay schedules that were duly approved and adopted by its governing body. Pursuant to Government Code Section 20636 and California Code of Regulations Section 570.5, the Authority is required to have publicly available pay schedules to specify the payrates reportable to CalPERS. OAS reviewed the reported payrates and pay schedules for sampled employees in the first pay period in June 2011 to determine whether the payrates were listed on a publicly available pay schedule. The Authority did not have publicly available salary schedules during our review period. Instead, the Authority had a final compensation survey that listed positions, grade, and a low and high salary range effective January 1, 2012. The reported payrates must be set forth in a publicly available pay schedule and meet the definition of payrate under the Public Employees' Retirement Law. Additionally, all pay schedules must be properly reviewed, authorized and approved by the Authority's Board in accordance with requirements of applicable public meeting laws. Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits.

Criteria:

Government Code: § 20160, § 20636 (b)(1), § 20636 (d)

California Code of Regulations: § 570.5

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Finding 2: Affiliated entity employees were erroneously enrolled into CalPERS membership.

Recommendation:

The Authority should only enroll eligible employees into CalPERS membership.

The Authority should work with CASD to make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The Authority erroneously enrolled employees that worked for an affiliated agency into CalPERS membership. OAS found four sampled individuals listed on the Authority's employee roster that had job titles designated as foundation. OAS obtained and reviewed several documents provided by the Authority to determine the relationship between the Authority and an affiliated entity called Santa Clara Family Health Foundation (Foundation).

Based on the documents reviewed, OAS determined the Foundation was an autonomous legal separate entity from the Authority and that the Authority erroneously enrolled individuals that worked for the Foundation into CalPERS membership as Authority employees.

Subsequent to the on-site field review, the Authority acknowledged via email correspondence that three out of the four individuals listed in the employee roster with Foundation titles were Foundation employees that performed services solely for the Foundation.

Criteria:

Government Code: § 20160, § 20502

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Finding 3: An employee hired through a temporary employment agency was not enrolled into CalPERS membership.

Recommendation:

The Authority should enroll and report eligible CalPERS members when membership requirements are met. In addition, the Authority should implement procedures to review and monitor the number of hours worked in a fiscal year by all temporary part-time employees, including individuals hired through a temporary employment agency, and enroll employees who meet membership eligibility requirements.

The Authority should work with CASD to assess the impact of this membership eligibility issue and make the necessary adjustments to the member's account pursuant to Government Code Section 20160.

Condition:

The Authority did not enroll an employee hired through a temporary employment agency into CalPERS membership when eligibility requirements were met. OAS reviewed the hours worked for fiscal year 2009/2010 and found the employee worked a total of 1,310 hours and was eligible for CalPERS membership on January 10, 2010. The employee should have been enrolled into CalPERS membership not later than the first day of the first pay period in the month following the month in which 1,000 hours of service were completed.

Criteria:

Government Code: § 20044, § 20160, § 20305(a)(3)(B)

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Finding 4: Retired annuitant's payrate exceeded the pay range that would have been paid to an employee performing comparable duties.

Recommendation:

The Authority should limit the payrate for retired annuitants to the maximum monthly base pay rate paid to other employees performing comparable duties as listed on a publicly available pay schedule.

The Authority should work with Benefit Services Division (BNSD) to assess the impact of the excessive payrate and make the necessary adjustments pursuant to Government Code Section 20160.

Condition:

OAS reviewed the hours worked by the retired annuitant in fiscal year 2010/2011 and found the retired annuitant did not exceed the 960-hour threshold. However, the retired annuitant's payrate during fiscal years 2008/2009 and 2010/2011 was not within the pay range that would have been paid to an employee performing comparable duties. OAS found the retired annuitant's payrates were \$100.00 and \$75.00 per hour respectively. The hourly payrate paid to the retired annuitant was higher than the \$42.47 per hour payrate the Authority reported to CalPERS prior to the member's May 2008 retirement. During the on-site visit, the Authority did not have other employees that performed comparable duties of the retired member.

Criteria:

Government Code § 20160, § 21220, § 21224(a)

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted. Since OAS did not review whether the Authority is a "public agency" (as that term is used in the California Public Employees' Retirement Law), this report expresses no opinion or finding with respect to whether the Authority is a public agency or whether its employees are employed by a public agency.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the agency of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, California Code of Regulations.

Respectfully submitted,

Original Signed by Margaret Junker
MARGARET JUNKER, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: June 2013
Staff: Cheryl Dietz, CPA, Assistant Chief
Michael Dutil, CIA, CRMA, Manager
Alan Feblowitz, CFE, Manager
Jose Martinez
Adeeb Alzanoon

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APPENDIX A

BACKGROUND

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BACKGROUND

California Public Employees' Retirement System

CalPERS provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CASD manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. BNSD sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employer's knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

APPENDIX B

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Authority complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the Authority's retirement contract with CalPERS were followed.

This review covers the period of July 1, 2008 through June 30, 2011. This review did not include a determination as to whether the Authority is a "public agency", and expresses no opinion or finding with respect to whether the Authority is a public agency or whether its employees are employed by a public agency.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the Authority's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the Authority and CalPERS
 - Correspondence files maintained at CalPERS
 - Authority Board minutes
 - Authority written labor policies and agreements
 - Authority salary, wage and benefit agreements including applicable resolutions
 - Authority personnel records and employee hours worked records
 - Authority payroll information including Summary Reports and CalPERS listings
 - Other documents used to specify payrate, special compensation, and benefits for all employees
 - Various other documents as necessary
- ✓ Reviewed Authority payroll records and compared the records to data reported to CalPERS to determine whether the Authority correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Authority public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the

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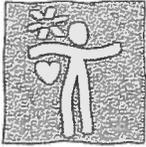
position title, payrate and time base for each position, and duly approved by the Authority's governing body in accordance with requirements of applicable public meeting laws.

- ✓ Reviewed CalPERS listing reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Authority's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Authority's enrollment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when 960 hours were worked in a fiscal year.
- ✓ Reviewed the Authority's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Authority's affiliated entities to determine if the Authority shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Authority or by the affiliated entity.
- ✓ Reviewed the Authority's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

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APPENDIX C

AUTHORITY'S WRITTEN RESPONSE



Santa Clara
Family Health Plan

The Spirit of Care

June 13, 2013

Margaret Junker
Chief Office of Audit Services
California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Re: **Employer Code 1737, CalPERS' ID 5813158737, Job Number P11-007**

Dear Ms. Junker:

The purpose of this communication is to respond to your letter dated May 29, 2013 regarding CalPERS' draft report on its review of Santa Clara County Health Authority.

Finding 1 – Pay rates were not listed on a publicly available pay schedule

The Executive Team has and continues to prepare and submit an annual budget for approval by the Board of Directors which includes Health Authority positions and merit-based and/or COLA increases.

The Health Authority will work with CASD to make necessary adjustments, if any, to active and retired member accounts.

Finding 2 – Affiliated entity employees were erroneously enrolled into CalPERS membership

The Health Authority partially disagrees with this finding.

From the inception of the Foundation until 2008, the Foundation employees reported directly to the CEO of the Health Authority. The CEO directed the work of these employees, evaluated their performance and set the Foundation goals and objectives. In 2009, a decision was made by the Board of Directors of the Foundation to change the reporting structure. As such, in 2009, the Executive Director became a direct report of the Foundation Board of Directors. Therefore, we believe that the employees of the Foundation were not erroneously enrolled into CalPERS. However, we agree that beginning in 2009, the Foundation employees were not reporting, supervised, directed or evaluated by the Health Authority CEO.

Margaret Junker
Chief Office of Audit Services
June 13, 2013
Page Two

Finding 3 – An employee hired through a temporary employment agency was not enrolled into CalPERS membership

The Health Authority concurs with this finding.

Finding 4 – Retired annuitant's pay rate exceeded the pay range that would have been paid to an employee performing comparable duties

The Health Authority disagrees with this finding.

The individual referenced is responsible for enrolling chronically and severely ill children into California Children's Services to ensure access to the best funding sources for proper care and treatment. This area of responsibility is highly complex and requires someone with specialized clinical skills and judgment.

In addition, the individual referenced is responsible for reviewing claims to determine billing in excess of allowable charges and submitting those claims for recovery. This area of responsibility requires analytical skills specifically related to coding, billing and claims recovery.

Sincerely,

SANTA CLARA COUNTY HEALTH AUTHORITY



David Cameron
Chief Financial Officer

cc: Elizabeth Darrow, Chief Executive Officer
Sharon Valdez, Vice President of Human Resources