

## INITIAL STATEMENT OF REASONS

### PROBLEM STATEMENT

The legislature adopted the Public Employees' Medical and Hospital Care Act (PEMHCA) (Government Code (GC) sections 22750-22944) in 1961 to allow the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) to purchase and manage health benefit plans for eligible State of California and contracting public agency employees and annuitants. PEMHCA allows specified family members eligible to enroll in CalPERS health benefit plans. PEMCHA defines "family member" to include a natural, adopted, or stepchild, and a child for whom a subscriber assumes a parent-child relationship (PCR). GC section 22775 of PEMHCA allows the CalPERS Board to prescribe age limits and "other conditions and limitations pertaining to children."

A PCR is defined in regulation 599.500, subdivision (o) as an "intentional assumption of parental status, or assumption of parental duties by the employee or annuitant, as certified by the employee or annuitant at the time of the enrollment of the child, and annually thereafter up to the age of 26, unless the child is disabled as described in section 599.500, subdivision (p)." PCR's do not include foster children.

An employee or annuitant claiming a PCR relationship is required to submit a signed Affidavit of Parent-Child Relationship form (HBD-40) at the time of enrollment and annually thereafter (up to the child reaching age 26). By signing this form, the employee or annuitant agrees to provide supporting documentation to evidence financial responsibility for the dependent child. The existing regulation, however, does not clearly define the types of supporting documentation required. CalPERS seeks to add clarifying language to specify the required primary and secondary supporting documentation needed to establish a PCR relationship exists.

For PCR dependents 18 years of age and under, a copy of the first page of the employee's or annuitant's tax return from the previous tax year listing the child as a dependent is required. In lieu of a tax return for a time not to exceed one tax filing year, the employee or annuitant can submit other documents that substantiate the child's financial dependence. However, the regulation does not currently specify what criteria to use for those employees or annuitants who are not required to file taxes and are unable to provide a copy of the first page of their tax return. CalPERS seeks to add language to provide guidance for those who not required to file an income tax return.

In addition, the Affidavit of Parent-Child Relationship (HBD-40) form is currently incorporated by reference into regulation 599.500 (o) subsection (1). CalPERS seeks to remove this reference and include the provisions of the form into the body of the regulation. This will enable CalPERS to make non-substantive formatting changes to the form as needed, without having to go through the formal rule making process.

## **BENEFITS**

The benefits of this proposed regulation are:

- Clarifies PCR eligibility criteria and minimizes confusion among members, employers and CalPERS staff as to who qualifies as a family member for CalPERS health benefits coverage.
- Streamlines and clarifies health program guidelines and operations for employers and members.
- Increases transparency and ensures that only eligible PCR dependents are enrolled into the health program.

## **PURPOSE**

The purpose of these changes is to amend the California Code of Regulations (CCR) Section 599.500 (o):

1. Paragraph (1): The purpose of this amendment is to remove the incorporated by reference form "Affidavit of Parent-Child Relationship (HBD-40) Rev. June 2015" from the regulation 599.500 paragraph (1) of subdivision (o) and include all form provisions into the body of the regulation.
2. Subparagraph (A) of paragraph (1): The purpose of this amendment is to make non-substantive changes to clarify the application of this section to those age 18 and under.
3. Number 1 of subparagraph (A) of paragraph (1): The purpose of this amendment is to clarify when the first page of an income tax return is required, to make specific the term "income tax," and to reference newly added subparagraphs (C) and (D).
4. Number 1 and 2 of subparagraph (B) of paragraph (1): The purpose of this amendment is to make specific the term "income tax," and to make reference to newly added subparagraphs (C) and (D). In addition, the amendment will make non-substantive changes to clarify the application of this section.
5. Subparagraphs (C) and (D) of paragraph (1): The purpose of this amendment is to add language to clarify the type of primary and secondary supporting PCR documentation required to certify financial dependency.
6. Subparagraph (E) of paragraph (1): The purpose of this amendment is to add language to clarify that supporting documentation must contain the PCR dependent's name and may not be older than 60 calendar days from the date of signature of the Affidavit of Parent-Child Relationship.
7. Subparagraph (F) of paragraph (1): The purpose of this amendment is to add language to clarify the certification requirements for employees and annuitants who are not required to file income tax returns.

## NECESSITY

To ensure compliance with PEMHCA and clarify eligibility requirements for PCR dependents, amendments to the existing PCR regulation are necessary to:

1. Paragraph (1) of section 599.500 (o): Remove the incorporated reference of the Affidavit of Parent-Child Relationship, Rev. June 2015, from the regulation and include various provisions currently set forth within the form to the body of the regulation. This will provide CalPERS the ability to make nonsubstantive formatting changes to the form as needed, without having to go through the formal rule making process.
2. Subparagraph (A) of paragraph (1) of section 599.500 (o): Make non-substantive changes to clarify the application of this section to those age 18 and under. This amendment is necessary to clarify PCR eligibility criteria to minimize confusion among members, employers and CalPERS staff when applying for or certifying coverage of a PCR.
3. Subparagraph (A) of paragraph (1) of section 599.500 (o): Clarify when the first page of an income tax return is required, to make specific the term "income tax," and to reference newly added subparagraphs (C) and (D). This amendment is necessary to clarify PCR eligibility criteria to minimize confusion among members, employers and CalPERS staff when applying for or certifying coverage of a PCR.
4. Numbers 1 and 2 of subparagraph (B) of paragraph (1) of section 599.500 (o): The purpose of this amendment is to make specific the term "income tax," and to make reference to newly added subparagraphs (C) and (D). In addition, the amendment will make non-substantive changes to clarify the application of this section. This amendment is necessary to clarify PCR eligibility criteria to minimize confusion among members, employers and CalPERS staff when applying for or certifying coverage of a PCR.
5. Subparagraphs (C) and (D) of paragraph (1) of section 599.500 (o): Add language to clarify the type of primary and secondary supporting PCR documentation required to certify financial dependency. Employees and annuitants or "subscribers" are required to submit a signed Affidavit of Parent-Child Relationship form (HBD-40) at the time of enrollment and annually thereafter (up to the child reaching age 26). By signing this form, the subscriber agrees to provide the required supporting documentation. However, the current regulations do not clearly define the types of supporting documentation required to certify that a PCR dependent is financially dependent upon the employee or annuitant for more than fifty percent (50%) of their support. This amendment is necessary to provide clear requirements to impacted subscribers and provides CalPERS and employers the ability to properly assess an individual's financial dependency upon the subscriber and ultimately determine a PCR eligibility.

6. Subparagraph (E) of paragraph (1) of section 599.500 (o): Add language to clarify that supporting documentation must contain the PCR dependent's name and may not be older than 60 calendar days from the date of signature of the Affidavit of Parent-Child Relationship. Employees and annuitants or "subscribers" are required to submit a signed Affidavit of Parent-Child Relationship form (HBD-40) at the time of enrollment and annually thereafter (up to the child reaching age 26). By signing this form, the subscriber agrees to provide the required supporting documentation. However, the current regulations do not clearly define the types of supporting documentation required to certify that a PCR dependent is financially dependent upon the employee or annuitant for more than fifty percent (50%) of their support. This amendment is necessary to provide clear requirements to impacted subscribers and provides CalPERS and employers the ability to properly assess an individual's financial dependency upon the subscriber and ultimately determine a PCR eligibility.
7. Subparagraph (F) of paragraph (1) of section 599.500 (o): Add language to clarify the certification requirements for employees and annuitants who are not required to file income tax returns. For PCR dependents 18 and under, a copy of the first page of a subscriber's tax return from the previous tax year listing the child as a dependent is required. However, the regulation does not currently specify what criteria to use for those employees or annuitants who are not required to file taxes and are unable to provide a copy of the first page of their tax return. This amendment is necessary to provide clear requirements to impacted subscribers and provides CalPERS and employers the ability to properly assess an individual's financial dependency upon the subscriber and ultimately determine a PCR eligibility.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

CalPERS relied upon the 2022 edition of the California Public Employees' Retirement Law as a basis for these regulations. There were no technical, theoretical, or empirical studies, reports, or documents or other material considered.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

CalPERS does not anticipate an increase in workload or cost for the State. The implementation of proposed regulations will, however, improve service, streamline operations to gain efficiencies, improve productivity, and reduce complexity without an economic impact.

In accordance with GC section 11346.3, subdivision (b), CalPERS has made the following assessments regarding the proposed regulation:

## **CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA**

The proposed regulatory action will not create or eliminate jobs within California.

The proposed regulations will clarify current provisions and make other technical changes to align the regulations with current practices to ensure only eligible PCR dependents are enrolled in a health plan.

#### **CREATION OF NEW BUSINESSES OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA**

The proposed regulatory action will not create new businesses or eliminate existing businesses within California. The proposed regulations will clarify current provisions and make other technical changes to align the regulations with current practices to ensure only eligible PCR dependents are enrolled in a health plan.

#### **EXPANSION OF BUSINESSES WITHIN THE STATE OF CALIFORNIA**

The proposed regulatory action will not affect the expansion of businesses currently doing business within California. The proposed regulations will clarify current provisions and make other technical changes to align the regulation with current practices to ensure only eligible PCR dependents are enrolled in a health plan.

#### **BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT**

The proposed regulatory action will not affect worker safety or the state's environment. The proposed regulations will clarify current provisions and make other technical changes to align the regulations with current practices to ensure only eligible PCR dependents are enrolled in a health plan.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The proposed regulatory actions have no cost impact on either small businesses or on persons in the private sector and no significant, statewide adverse economic impacts that directly affect business. CalPERS staff will be responsible for developing policies and procedures to administer this change in health enrollment requirements and for amending the current Parent-Child Affidavit. The State and contracting agency employers will be responsible for disseminating the information and reviewing the forms, which are tasks already part of the normal workload for the Health Benefits Officers (HBOs) responsible for processing health plan enrollments.

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

CalPERS has not identified any reasonable alternatives that would be as effective or less burdensome than the proposed regulation. These amendments

were determined to be the most transparent and clear approach to providing clarity to employees, annuitants, and employers when determining eligibility for a PCR. CalPERS will consider any reasonable alternatives proposed through the public comment period associated with this regulatory action.

**DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS**

None