INITIAL STATEMENT OF REASONS

Proposed Amendments to California Code of Regulations (CCR) Title 2, § 599.502
Clarification of Combination Enrollments

DESCRIPTION OF THE PUBLIC PROBLEM

Current Public Employees’ Medical and Hospital Care Act (PEMHCA) regulations are unclear regarding combination enrollments. A combination enrollment is one in which at least one family member is eligible for Medicare and must enroll in a Medicare or supplemental plan and another family member(s) not eligible for Medicare must enroll in a basic plan. CalPERS requires all individuals within a combination enrollment to enroll in a supplemental and basic plan provided by the same health plan carrier.

In 2011, CalPERS, through the Health Benefits Purchasing Review Project, developed strategies and initiatives to ensure it could maintain program sustainability to provide quality affordable health care into the future. As part of this strategy, and as a potential means to reduce premium costs, CalPERS adopted regulations that gave it flexibility relative to supplemental health plan options. At the time, it was thought that CalPERS’ business model and information technology systems could accommodate members in combination enrollments to enroll in plans provided by different carriers. This has turned out not to be the case.

As currently written, the regulations could be interpreted as allowing members in combination enrollments to enroll in plans provided by different carriers when in fact this option is not, and never has been, available. This causes member confusion, increased member inquiries, and could lead to member appeals. It is necessary to amend regulations to provide clarity to CalPERS members and other stakeholders regarding the rules for members in combination enrollments.

RATIONALE FOR THE DETERMINATION THAT EACH ADOPTION, AMENDMENT OR REPEAL IS NECESSARY (PURPOSE, BENEFITS, and GOALS)

Factual Basis/Rationale

Government Code (GC) § 20121 permits the Board to make such rules as it deems proper. In addition, GC § 22796, subdivision (a), paragraph (2), requires the Board, pursuant to the Administrative Procedure Act, to adopt all necessary rules and regulations to carry out the provisions of PEMHCA.

GC § 22844, subdivision (a), provides the Board authority to coordinate CalPERS health benefits with the federal Medicare program to achieve both member and employer savings. This statute prohibits employees, annuitants, and family members “who become” eligible to enroll in Parts A and B of Medicare from enrolling in a basic health benefit plan. Furthermore, this statute permits employees, annuitants, and family members enrolled in Parts A and B of Medicare to enroll in a Medicare health plan.
GC § 22850, subdivision (a), permits the Board the authority to enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans. GC § 22793 states that the Board must, in conformity with PEMHCA, approve health benefit plans and may contract with carriers offering health benefit plans.

GC § 22860 provides broad authority for the Board to integrate benefits provided by a health benefits plan with the benefits provided by federal or state plans for health care services for the aged in which there is federal or state financial participation. This section also provides the Board authority to adopt rules and regulations necessary for implementation, including enrolling employees and annuitants eligible for benefits provided by a federal or state plan for the aged in separate plans.

**Specific Purpose**

- Amend CCR § § 599.502, subdivision (g), paragraph (4)

The purpose of this amendment is to clarify (i) that an employee or annuitant and all eligible family members may only enroll into a basic or supplemental plan offered by the CalPERS Board of Administration (Board) that is available to them at the time of enrollment and (ii) that when an employee or annuitant and all eligible family members cannot enroll into one basic or supplemental plan at the time of enrollment due to eligibility rules, they must enroll into only one basic plan and only one supplemental plan provided by the same carrier, unless the Board authorizes them to enroll into one basic plan and into one supplemental plan offered by one or more different carriers. This contingency language would give the Board the authority to allow for split carrier enrollments should CalPERS change its business model and systems in the future to accommodate such enrollments.

**MATERIAL RELIED UPON/TECHNICAL, THEORETICAL, AND EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS**

CalPERS relied upon the 2016 edition of the California Public Employees’ Retirement Law as a basis for these regulations. There are no other technical, theoretical, and empirical studies, reports, or documents or other material relied upon for these proposed regulations.

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

There are no reasonable alternatives to the regulation and subsequently no reasons for CalPERS rejecting those alternatives.

**Economic Impact Analysis/Assessment**

The proposed regulations will be cost neutral to CalPERS. Any costs associated with implementing proposed regulations will be absorbed by existing CalPERS resources.

In accordance with GC § 11346.3 (b), CalPERS has made the following assessments regarding the proposed regulation:
Creation or Elimination of Jobs Within the State of California

The proposed regulations clarify the rules regarding enrollments in basic and supplemental plans and specify that an employee or annuitant and all eligible family members must enroll into one basic plan and into one supplemental plan provided by the same carrier unless the Board authorizes enrollment in basic and supplemental plans provided by one or more different carriers.

In clarifying the requirements of CCR § 599.502, which only apply to CalPERS members, annuitants, and their family members, CalPERS does not foresee that any jobs in California will be created or eliminated as a result of the proposed regulations.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed regulations clarify the rules regarding enrollments in basic and supplemental plans and specify that an employee or annuitant and all eligible family members must enroll into one basic plan and into one supplemental plan provided by the same carrier unless the Board authorizes enrollment in basic and supplemental plans provided by one or more different carriers.

In clarifying the requirements of CCR § 599.502, which only apply to CalPERS members, annuitants, and their family members, CalPERS does not foresee that any new businesses in California will be created or existing businesses eliminated as a result of the proposed regulations.

Expansion of Businesses Within the State of California

The proposed regulations clarify the rules regarding enrollments in basic and supplemental plans and specify that an employee or annuitant and all eligible family members must enroll into one basic plan and into one supplemental plan provided by the same carrier unless the Board authorizes enrollment in basic and supplemental plans provided by one or more different carriers.

In clarifying the requirements of CCR § 599.502, which only apply to CalPERS members, annuitants, and their family members, CalPERS does not foresee that any existing businesses in California will be expanded as a result of the proposed regulations.

Benefits of the Regulation to the Health and Welfare of California Residents

CalPERS believes the adoption of this regulation benefits the health and welfare of California residents by ensuring program integrity and sustainability of the CalPERS health benefits program which covers more than 1.4 million active and retired state, local government, and school employees, and their family members.

Significant, Statewide Adverse Economic Impact Directly Affecting Business

The proposed regulations will 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. The proposed regulatory action applies only to CalPERS, a state government agency, in the administration of its health benefits program. Any cost impact this proposed regulation will have will be on CalPERS and will be absorbed within existing CalPERS resources.