

INITIAL STATEMENT OF REASONS

Proposed Amendment to California Code of Regulations (CCR)

Title 2, § 599.518

Coverage: Member Health Appeals Process

DESCRIPTION OF THE PUBLIC PROBLEM

The California Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code (GC) § 599.518, states a request for administrative review (AR) must be filed with the unit charged with the processing and oversight of health appeals within thirty (30) days of the date the member receives a decision from an appeals process. Members requesting an administrative hearing (AH) must submit the request within 30 days of the date of the CalPERS AR. Upon satisfactory showing of good cause, CalPERS may grant additional time to file a request for an AH, not to exceed 30 days.

CalPERS seeks to remove ambiguity from the current 30- day timeframe for a member to request an AR, allow an additional 30 days to request an AR upon showing of good cause, and make similar subdivisions more consistent and complementary and improve member service.

Currently, the regulation for an AR does not provide a clear definitive point in time to begin the 30-day timeframe. The AH regulation's process and the health plans' Evidence of Coverages state the 30-day timeframe starts from the date of the determination letters. The current process is challenging for the unit charged with processing and oversight of health appeals. CalPERS must contact the member to determine when they received the health plan's denial. This is not efficient for CalPERS nor the member. The current AR regulation does not permit CalPERS to grant additional time to request an AR if the member could not submit a timely request due to an extenuating circumstance. The processes within the CalPERS Board (e.g. ARs and AHs) are not consistent. There are circumstances outside the member's control that prevent the request to CalPERS within the timeframe. In those cases, CalPERS cannot accept the request for an AR due to the strict 30-day filing requirement under the current regulation.

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

Factual Basis/Rationale

Pursuant to Government Code (GC) § 22794, the Board has the authority to carry out the responsibilities expressly granted or imposed upon it under PEMHCA. Specifically, 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. Pursuant to GC § 22848, an employee or annuitant who is dissatisfied with any action or failure

to act in connection with his or her coverage or the coverage of his or her family members under this part shall have the right of appeal.

Specific Purpose

- Amend CCR § 599.518, subdivision (d), paragraph (1)

The purpose of these proposed regulation is to (i) clarify that the 30-day timeframe begins from the date of the health plan's final adverse benefit determination (ii) make the process and timeframe to request an AR consistent with the process and timeframe to request an AH (iii) provide additional time to request an AR upon showing of good cause (iv) create a more flexible and enhanced service to member.

In addition, we noticed that (d)(1) and (e)(1) were inconsistent. We believe this was an oversight of the original drafters, as it is CalPERS policy in a number of areas to generally allow timeframe extension to submissions for circumstances reasonably beyond a member's control. Therefore, we request that these two subdivisions mirror one another going forward.

In the process of aligning these two provisions, we propose to remove the "delays in receiving additional documents supporting the employee or annuitant's case," because the only delays in submitting additional documents we would generally accept would be those circumstances beyond a member's control, and that language is already in place.

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

CalPERS relied upon the 2019 edition of the California Public Employees' Retirement Law (PERL) 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 REASON 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 amendment to the regulation will be cost neutral to CalPERS. Any costs associated with implementing the proposed amendment 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 timeframes regarding the health plan appeals process, specifically, creating a consistent process to CalPERS for AR and AH.

In clarifying the requirements of CCR § 599.518, which only applies to CalPERS 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 timeframes regarding the health plan appeals process, specifically, creating a consistent process to CalPERS for AR and AH.

In clarifying the requirements of CCR § 599.518, which only applies to CalPERS 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 timeframes regarding the health plan appeals process, specifically, creating a consistent process to CalPERS for AR and AH.

In clarifying the requirements of CCR § 599.518, which applies to CalPERS 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

If the proposed amendment is adopted, they will provide CalPERS members with a clearer timeframe and additional time to request an AR.

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. The proposed regulatory amendment 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.

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

The proposed amendment will not have a significant statewide adverse economic impact directly affecting business, including the ability of businesses in California to compete with businesses in other states. The proposed regulations provides members consistency and clarity with the AR process and aligns the AR process with the AH process.