

## INITIAL STATEMENT OF REASONS

### PROBLEM STATEMENT

The Legislature adopted the Public Employees' Medical and Hospital Care Act (PEMHCA) in 1961 (Government Code sections 22750-22944) to allow the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) to purchase and manage health plans for CalPERS members. The definitions of dependent eligibility for health plan coverage under PEMHCA include "family member" (section 22775) and are clarified through the definitions provided in PEMHCA regulations, starting with section 599.500. The regulatory definition for "family member" includes a natural, adopted, or step child, and also a child for whom a member assumes a parent-child relationship (PCR).

A PCR is defined in PEMHCA regulations, § 599.500, subsection (o), as "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 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)." (Note: PCRs do not include foster children.)

Government Code section 22775 of PEMHCA allows the CalPERS Board to prescribe age limits and "other conditions and limitations pertaining to children;" however, existing regulations do not speak to eligibility rules for PCRs.

Upon enrolling a family member in the CalPERS Health Benefits Program, PEMHCA requires subscribers to provide a marriage certificate for a spouse, or a declaration of domestic partnership for a domestic partner. PEMHCA regulations stipulate that coverage for a newborn or adopted child begins on the date of birth or of physical custody; however, the regulations for PCRs do not stipulate clear and concise enrollment eligibility criteria and are not clear as to what type of documentation is necessary to confirm the existence of a subscriber's parental role within a PCR. Therefore, PCR enrollment eligibility is dependent upon the individual interpretation of each Health Benefits Officer (HBO) processing the enrollment.

Currently, CalPERS members must sign a Parent-Child Affidavit at the time of enrollment and annually thereafter (up to the child reaching age 26), with the understanding that when requested by the employing office (i.e., the employer or CalPERS), they must provide necessary supporting documentation to certify that PCR; however, the type of supporting documentation submitted varies from one member to another and lacks consistency. On the affidavit, members must check a box next to ***any applicable statement*** that s/he *either*:

- Has assumed a primary custodial role for this child;
- Is considered the primary care parent;
- Has assumed responsibility for providing essential needs for this child, such as food, shelter, clothing, and education;
- Is listed as the primary contact on school, health, and other emergency forms;

- Provides parental permission for the child regarding health care services, school, extracurricular, and other activities; or
- Claims the child as a dependent for income tax purposes.

It is then at the employing office's discretion to approve/deny the affidavit after review. There is no guidance for members to submit supporting documentation when affidavits are submitted and no direction on "appropriate" documentation to substantiate the PCR.

## **BENEFITS**

Implementing clarifying regulations relative to PCR eligibility would have many benefits:

- Streamline for accuracy and clarity the guidelines for health plan operations and PCR criteria for employers and members
- Reduce the incidence of ineligible dependent enrollment
- Uphold CalPERS fiduciary responsibility to its members in managing overall health costs for employers, members, and the General Fund
- Eliminate ambiguity for both members and employers as to who is eligible and who is not eligible for coverage under a PCR.

## **PURPOSE**

Section 599.500, subdivision (o): To clarify that when enrolling and re-certifying PCR dependents, members will be required to submit documents that substantiate the parental role within that PCR, in addition to the Parent-Child Affidavit.

## **NECESSITY**

To uphold CalPERS fiduciary responsibility to all of the 1.4 million members it serves, which includes approximately 738,000 dependents, the CalPERS Board approved the implementation of a Dependent Eligibility Verification (DEV) project (April 2013 - June 2015), designed to confirm that all dependents enrolled in a CalPERS health plan meet the eligibility criteria with specified pieces of supporting documentation.

During the project's amnesty period, which allowed subscribers to voluntarily drop dependents before the verification phase began, 4,851 subscribers removed 6,722 dependents. More than 52% of the total population disenrolled consisted of PCR dependents. These members were simply unable to prove existence of a parental role through a tax return or other recent document (as requested through the verification period) indicating the member's financial and parental responsibility for the child.

Now in the midst of the verification phase, CalPERS continues to find subscribers unable to properly substantiate their PCR dependents. In addition, throughout each verification cycle, the majority of questions CalPERS receives from employers continues to surround PCR certification, and what constitutes sufficient supporting documentation. Therefore, clarifying regulations for PCRs are necessary to implement a more cohesive and consistent business practice.

Implementing these regulations would create clear rules for employers and subscribers to follow regarding the specific types of documentation required to prove the existence of a parental role in the PCR. These regulatory changes would also support the CalPERS mission to control and maintain health costs by ensuring only eligible dependents remain enrolled in our health plans.

Further, CalPERS staff has researched various enrollment and documentation requirements to gauge where CalPERS stands in its policies for dependents who fall outside of the traditional definition of child. The following agencies were examined: the federal Office of Personnel Management (OPM), the agency responsible for administering health care benefits for federal government employees, and the University of California (UC) system.

### **Office of Personnel Management**

At OPM, dependent children eligible for coverage include natural, step, adopted, and PCR dependents. OPM requires birth certificates for natural and step children, and legal adoption papers for adopted children. For PCR dependents, OPM requires members to provide a signed certification indicating regular and substantial support of the PCR dependent. PCR dependents are eligible for coverage upon the member providing documentation of regular and substantial support of the child, *in addition* to signing a certification that his/her dependent meets all of the following criteria:

- The child must be under age 26.
- The child must currently live with the employee.
- The parent-child relationship must be with the employee, not the child's biological parent.
- The employee must currently be the primary source of financial support for the child.
- The employee must expect to raise the child to adulthood.

Further, OPM defines a "regular Parent-Child Relationship" as one in which the employee is exercising parental authority, responsibility, and control over the child by caring for, supporting, disciplining, and guiding the child, including making decisions about the child's education and health care.

### **University of California (UC) System**

While the eligibility requirements do not specifically call out PCRs, the UC system states that eligible children include those who are natural, step and adopted. Grandchildren are also eligible so long as the grandchild is of the employee/retiree and the child is:

- Under age 26
- Unmarried
- Living with the member
- Dependent on the member for 50% or more of his/her support
- **Claimed as a dependent for income tax purposes**

Since CalPERS has allowed through PEMHCA regulations an extended definition of "family member" to include PCR dependents, CalPERS enrollment practices should be more restrictive to prevent future ineligible dependent

enrollments by implementing unequivocal PCR eligibility criteria for both employers and members to follow.

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

None.

#### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

As a result of the implementation of these proposed regulations, CalPERS believes the clarifying language will expedite and increase efficiency in the enrollment and certification process. CalPERS will partner with the California Department of Human Resources to develop policy changes and issue memoranda about this change to HBOs for State departments and to all CalPERS-contracting agencies.

Members will be required to provide copies of documentation that should already be in their possession to establish and prove the existence of the PCR. Upon implementation of these regulatory changes, if a subscriber's dependent fails to meet the PCR eligibility criteria, s/he has several available and affordable alternatives for coverage through the California Health Benefit Exchange.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING 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 – tasks which already are part of the normal workload for HBOs responsible for processing health plan enrollments.

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

CalPERS could continue operations as they are. This translates to allowing CalPERS and employers to accept new enrollments for PCR dependents without clear expectations on required documentation. Carrying ineligible PCR dependents could adversely impact the State General Fund, as employers continue to contribute towards their health benefits.

However, this alternative does not fall within CalPERS best practices as a health industry leader in controlling health care costs nor is it the most prudent or fiscally responsible solution. As operations stand, each agency's HBO has the subjective discretion whether to enroll each PCR dependent; there is no consistency or cohesiveness among this enrollment process. Implementing standards and rules which employers can follow would define enrollment parameters for HBOs and ensure that only validated PCRs are processed.

#### **DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS**

None.

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 health enrollment eligibility standards for a parent-child relationship pursuant to CCR § 599.500 (o).

By amending CCR § 599.500, which only applies 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. Asking for supporting documentation to prove eligibility for health benefits would not create or eliminate jobs within the State of California.

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

The proposed regulations clarify the health enrollment eligibility standards for a parent-child relationship pursuant to CCR § 599.500 (o).

By amending CCR § 599.500, which only applies 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. Asking for supporting documentation to prove eligibility for health benefits would not create new or eliminate existing businesses within the State of California.

Expansion of Businesses Within the State of California

The proposed regulations clarify the health enrollment eligibility standards for a parent-child relationship pursuant to CCR § 599.500 (o).

By amending CCR § 599.500, which applies 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. Asking for supporting documentation to prove eligibility for health benefits would not expand existing businesses within the State of California.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

This regulation does not benefit the health and welfare of California residents, worker safety, or the state's environment.