

TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM NOTICE OF PROPOSED REGULATORY ACTIONS

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend section 599.500, subdivision (o), in Article 1, Subchapter 3 of Chapter 2 of Division 1 of Title 2, of the California Code of Regulations (CCR), titled "Definitions." (Hereafter "regulation 599.500".) The proposed regulatory action seeks to clarify Parent-Child Relationship (PCR) dependent eligibility by implementing clear enrollment eligibility criteria and required supporting documentation for CalPERS health plan subscribers.

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on June 3, 2022 and closing on July 18, 2022. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via e-mail at Regulation_Coordinator@calpers.ca.gov or mailed to the following address:

Andrew White, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942720
Sacramento, California 94229-2720
Phone: (916) 795-3038

III. PUBLIC HEARING

A public hearing will not be scheduled unless an interested person or their duly authorized representative submits a written request to CalPERS for a public hearing no later than 15 days prior to the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulation Coordinator.

V. AUTHORITY AND REFERENCE

The Board has general authority to take regulatory action under Government Code (GC) sections 22750, 22775, 22794, 22796, and 22830. The Board has specific authority to amend regulation 599.500, subdivision (o) pursuant to GC section 22775.

Reference citation: GC sections 22775.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CalPERS provides health care benefits to State and contracting agency employees, annuitants, and eligible family members under the Public Employees' Medical and Hospital Care Act (PEMHCA). Pursuant to GC section 22775, a family member includes a natural, step and adopted child. Under GC section 22775, the definition of "family member" specifically allows the Board to "prescribe age limits and other conditions and limitations pertaining to children."

PEMHCA regulations allow the definition of a family member to also include a child for whom the subscriber has assumed a parental role, labeled as a PCR dependent.

A PCR is defined in PEMHCA regulation 599.500, subdivision (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 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.

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, existing 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. 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. In lieu of a tax return for a time not to exceed one tax filing year, the subscriber 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.

This lack of clarity leads to confusion amongst impacted subscribers and the inability for CalPERS and/or the employer to properly assess an

individual's financial dependency upon the subscriber and ultimately determine PCR eligibility.

The proposed regulatory amendments specify the required primary and secondary supporting documentation required to certify a child is financially dependent upon the subscriber and clarifies the supporting documentation must contain the PCR dependent's name and may not be older than sixty (60) calendar days from the date of signature of the Affidavit of Parent-Child Relationship. They will also provide guidance for individuals who are not required to file an income tax return. Lastly, the Affidavit of Parent-Child Relationship (HBD-40) form, which is currently incorporated by reference in regulation 599.500, subdivision (o), is removed and various provisions currently set forth within the form be included in 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.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulatory action will remove the ambiguity from determining PCR dependent eligibility by implementing clear enrollment eligibility criteria for CalPERS health plan subscribers and increase productivity and efficiency in the workplace by streamlining the enrollment processes among all State and contracting agency employers.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

CalPERS has evaluated and determined that the proposed regulations are not inconsistent, nor incompatible with existing State regulations. There are no other State regulations comparable to regulation 599.500 or as required to be identified pursuant to GC section 11346.5, subdivision (a), paragraphs (3)(D).

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small private businesses because it applies only to the State of California in its role as an employer and local contracting agencies and school districts that have contracted with CalPERS to provide health benefits coverage to their employees and annuitants, and State of California, local contracting agency and school district employees and annuitants.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:
The proposed regulatory action does not impose requirements on

local agencies and school districts that contract with CalPERS above and beyond the normal scope of determining health benefit eligibility.

- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action will not reflect any cost or savings to any State agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action will not impose costs to any local agency or school district.
- D. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GC SECTION 17500 THROUGH SECTION 17630:** There are no costs to any local agency or school district which must be reimbursed in accordance with GC section 17500 through section 17630.
- E. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action will not impose nondiscretionary costs or savings on local agencies.
- F. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in costs or savings in federal funding to the state.
- G. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- H. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a private person or business would necessarily incur in reasonable compliance with the proposed action because the regulatory action only applies to the State of California in its role as an employer, local contracting agencies and school districts that contract with CalPERS to provide health benefits coverage to their employees and annuitants, and State of California and local contracting agencies and school districts that have contracted with CalPERS to provide health benefits coverage to their employees and annuitants, and State of California, local contracting agency and school district employees and annuitants.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect on housing costs.
- J. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS OR THE STANDARDIZED REGULATORY IMPACT ANALYSIS:** The

proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; or (4) affect worker safety or the State's environment.

The proposed regulatory action benefits the health and welfare of California residents since it will provide clarity regarding PCR dependent eligibility criteria. This clarification will help sustain CalPERS Health Benefits Program's integrity, which currently provides health benefits coverage to more than one and one-half million active and retired State, local government, and school employees, and their family members.

IX. CONSIDERATION OF ALTERNATIVES

In accordance with GC Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be:

- more effective in carrying out the purpose of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or
- more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at a hearing or during the written comment period.

X. CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Andrew White, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942720
Sacramento, CA 94229-2720
Telephone: (916) 795-3038
E-Mail: Regulation_Coordinator@CalPERS.CA.GOV

Andrea Peters, Backup Regulation Coordinator
California Public Employees' Retirement System
P.O.Box 942720
Sacramento, CA 94229-2720
Telephone: (916) 795-1471
E-Mail: Regulation_Coordinator@CalPERS.CA.GOV

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to Andrew White, Regulation Coordinator at the contact information listed above.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 400 Q Street, Sacramento, CA 95811. As of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. Copies may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section X.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at www.calpers.ca.gov/regulations/regulatoryactions.

XII. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After receiving comments from the public and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of the CalPERS Regulation Coordinator at the mailing address shown in Section X. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

XIII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the contact information listed in Section X.