



Pension & Health Benefits Committee

Agenda Item 5a

September 21, 2022

Item Name: Proposed Revisions to the Public Employees' Medical and Hospital Care Act (PEMHCA) Regulations: Definition of Parent-Child Relationships

Program: Health Benefits

Item Type: Action Consent

Recommendation

Approve the revised proposed amendments to Section 599.500, subdivision (o) of the Public Employees' Medical and Hospital Care Act (PEMHCA) Regulations to clarify a dependent's eligibility in a Parent-Child Relationships (PCR), with an additional 15-day public comment period, followed by submission of the final rulemaking package to the Office of Administrative Law (OAL) upon conclusion of the comment period if no public comments are received.

Executive Summary

The proposed changes to California Code of Regulations (CCR) Section 599.500, subdivision (o) were initially published for public review on June 3, 2022. CalPERS amended the proposed regulation text (Attachment 1) in response to the public comments received. The amendments provide further clarity to the proposed regulations.

Strategic Plan

This proposal supports the 2022-27 California Public Employees' Retirement System (CalPERS) Strategic Plan to improve processes, operations, and advance technologies to gain efficiencies and effectiveness.

Background

On March 16, 2022, the Board of Administration (Board) approved the formal process to amend CCR Section 599.500, subdivision (o) to clarify dependent's eligibility in a PCR. The Notice of Proposed Regulatory Action was published in the California Regulatory Notice Register (File Number Z-2022-0524-02), commencing a 45-day comment period effective June 3, 2022, which formally closed on July 18, 2022.

CalPERS received two public comments during this period and did not receive any requests for a formal hearing on the matter. The Revised Text of Proposed Regulatory Action by CalPERS

(Attachment 1) reflects the proposed language changes. A complete summary of public comments and CalPERS responses are reflected in Attachment 2.

Analysis

PEMCHA specifies the family members who are eligible to enroll in the CalPERS Health Benefit program. PEMCHA defines “family member” to include a natural, adopted, stepchild, domestic partner child, and a child for whom a subscriber assumes a parent-child relationship (PCR). A PCR is further defined in CCR section 599.500, subdivision (o) and an employee or annuitant certifying a dependent in a PCR 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 proposed regulation changes to subparagraph (C) and (D), adds language to clarify the type of primary and secondary supporting documentation required to certify financial dependency of more than fifty percent of an employee or annuitant’s support. Public comments pertain primarily to children who are not yet school age and those who are new to the program. Concerns were expressed as to whether the documentation requirements for these individuals was too burdensome. One commentator felt the added specificity in the proposed regulation was overly narrowing.

CalPERS does not agree that additional regulatory language is necessary to provide employers, employees, or annuitants greater discretion, as the regulation provides multiple alternative ways to demonstrate a dependent’s eligibility as a PCR. For example, for dependents under the age of 19 a copy of the first page of the employee or annuitant’s income tax return from the previous tax year listing the child as a tax dependent is required. However, to address newly acquired dependents in a PCR, for a time not to exceed one tax filing year, the employee or annuitant may submit other documents that substantiate the child’s financial dependence. For children who are not yet school age, school records may also include preschool and day care records showing the employee or annuitant as having legal parental status or guardianship over the child. In addition, other verifiable documentation is acceptable, such as medical bills or proof of medical and dental insurance. Secondary supporting documentation may also include day care or preschool payments, proof of payment by the employee or annuitant for child(ren) activities such as sport registrations fees, music lessons, swimming lesson, etc. And, in the instance where an employee or annuitant is unable to comply with the requirements and certify financial responsibility for the dependent child within the required timeframe, they may request enrollment during a subsequent qualifying event such as open enrollment or as a late enrollment request, providing them additional time to obtain the required documentation.

Public comments also indicated concern with subparagraph (E), which clarifies that supporting documentation must contain the dependent’s name in a PCR and may not be older than 60-calendar days from the date of signature of the Affidavit of Parent-Child Relationship, as some of the documents are likely to be outside of the 60 days due to the nature of the document type.

To remedy this issue, CalPERS has updated subparagraph (E) and included an exception to the 60-calendar day requirement for legal judgements, court documents, child's driver's license or state identification, or vehicle registrations. All other supporting documentation will maintain the 60-calendar day requirement.

CalPERS received a recommendation to add regulatory language to provide an employee or annuitant one year from date of death of their spouse or domestic partner to certify the child or children of the deceased spouse or domestic partner as a PCR. However, this recommendation is not necessary as existing law provides that stepchildren and domestic partner children remain eligible for CalPERS health benefits as a dependent and may remain enrolled on the employee or annuitant's account until they turn 26, or until the employee or annuitant remarries or registers a new domestic partnership. CalPERS will clarify this in future guidance to employers.

The revised changes to the proposed amendments to CCR Section 599.500, subdivision (o) will require an additional 15-day public comment period, followed by submission of the final rulemaking package to the Office of Administrative Law (OAL) upon conclusion of the comment period if no public comments are received.

Budget and Fiscal Impacts

None

Benefits and Risks

The benefits of this proposed regulation are:

- Clarifies PCR eligibility criteria and minimizes confusion among members, employers, and CalPERS team members 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 dependents in a PCR are enrolled into the health program.

No risks have been identified.

Attachments

Attachment 1 – Revised Text of Proposed Regulatory Action by CalPERS

Attachment 2 – Summary and Responses to Comments Received During the Public Notice Period of June 3, 2022 through July 18, 2022

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