



## Pension & Health Benefits Committee

# Agenda Item 5c

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**March 16, 2021**

**Item Name:** Minimum Standards for Health Benefit Plans – Amendment of Regulations

**Program:** Health Benefits

**Item Type:** Action Consent

### **Recommendation**

Approve staff's recommendation to submit the final rulemaking file to the Office of Administrative Law (OAL) that will amend existing regulations regarding the minimum standards for California Public Employees' Retirement System (CalPERS) health benefit plans.

### **Executive Summary**

The proposed changes to California Code of Regulations (CCR) Sections 599.500 and 599.508 (Attachment 1) was published for public review on January 1, 2021. During the 45-day public comment period, CalPERS received one public comment (Attachment 2).

The CalPERS team is recommending the CalPERS Board of Administration (Board) approve the proposed amendments that were initially approved by the Board during the November 18, 2020, Board of Administration meeting. The amendments update the risk adjustment sections to remove outdated procedural language describing the previous risk adjustment process and also to delete obsolete language that is inconsistent with current actuarial reserve processes.

### **Strategic Plan**

This item supports CalPERS' High-Quality Affordable Health Care Strategic Goal.

### **Background**

In 2013, the CalPERS Board approved regulations to implement risk adjustment for the 2014 plan year. Health plan premiums were subsequently risk adjusted for five years until the 2019 plan year, at which time the Board decided to remove risk adjustment and return to the practice of calculating premiums for each health plan independently due to the complexity of administering the program and the lack of transparency for participating health plans. The return to non-risk adjusted health premiums resulted in adverse selection, concentration of risk, and year-over-year premium volatility for certain health plans for plan years 2019 – 2021.

At the September 15, 2020, Pension & Health Benefits Committee (PHBC) meeting, the CalPERS health team presented various risk mitigation strategies and proposed bringing recommendations to the PHBC for further discussion and approval at the November 2020 PHBC meeting.

On November 18, 2020, the CalPERS Board approved the formal process to amend outdated language which would limit CalPERS' ability to facilitate a new risk mitigation strategy. This action initiated the regulatory change process with the OAL in compliance with the rulemaking procedures and standards set forth in California's Administrative Procedure Act. Proposed regulation changes were published in the California Regulatory Notice Register, commencing a 45-day public comment period effective January 1, 2021, which formally closed on February 15, 2021. During this public comment period, CalPERS received one public comment (Attachment 2). CalPERS did not receive any requests for a formal hearing on the matter.

## **Analysis**

The CalPERS team conducted a review of existing risk adjustment regulations and identified outdated and obsolete sections that procedurally describe the risk adjustment process removed by the Board in 2018. These outdated sections could constrain the Board's ability to implement new risk mitigation strategies. Amending CCR section 599.500(x) will broaden the definition of risk adjustment. Amending CCR section 599.508(a)(8) and deleting CCR sections 599.508(a)(8)(A) through 599.508(a)(8)(E) will remove outdated processes used to administer the previous risk adjustment program while still requiring health plans to participate in any risk adjustment methodology chosen by CalPERS.

Additionally, amending CCR section 599.508(a)(9) will remove an obsolete reserve requirement.

## **Budget and Fiscal Impacts**

There are no budget or fiscal impacts.

## **Benefits and Risks**

Potential benefits associated with the adoption of this regulations package:

- Stabilize premiums and provide CalPERS the ability to offer a variety of plans to meet the needs of a diverse enrollee population.
- Maintain choice of plan types for employees by improving plan sustainability.
- Contain costs and encourage members to select the most cost-efficient and effective plans.
- Encourage CalPERS health plan providers to compete based on medical and administrative efficiency and quality of care rather than on their ability to select lower health risk.
- Allow cost differences across options to reflect differences in health plan efficiency.
- Delete obsolete regulatory provisions.

Potential risks associated with the adoption of this regulations package:

- Initial premium pricing changes may cause member disruption.

## **Attachments**

Attachment 1 – Proposed Regulatory Action By CalPERS

Attachment 2 – Public Comment

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