



**EMPLOYER DESIGNATION MODEL TEMPLATE FOR A VARIABLE-HOUR  
EMPLOYEE MEETING THE DEFINITION OF "EMPLOYEE" UNDER THE  
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

\_\_\_\_\_, (Employer), has filed a resolution to be subject to the Public Employees' Medical and Hospital Care Act (PEMHCA) in order to provide a health benefit plan to employees or is the State of California (Employer) or California State University (Employer), and is subject to the provisions of PEMHCA.

Employer designates \_\_\_\_\_ to be an employee for purposes of California Government Code (GC) section 22772, and therefore eligible to enroll in a health benefit plan approved by the CalPERS Board of Administration. This designation is the result of Employer determining that the above-named employee is a "full-time employee" within the meaning of Section 4980H of Title 26 of the United States Code and applicable United States Treasury Department regulations and interpretive guidance.

The effective date of coverage in the health benefit plan for the above-named employee is \_\_\_\_\_.

Employer will disenroll the employee and any dependents from the health benefit plan when he or she no longer is a "full-time employee" as described in GC section 22772(a)(6)(A).

Name: \_\_\_\_\_  
(print name)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_  
(Human Resources Manager or appropriate officer)

Date: \_\_\_\_\_

# Employer Designation Model Template

## **BACKGROUND**

Under the Affordable Care Act (ACA) and its implementing regulations and guidance, applicable large employers may be subject to federal assessable payments for failure to offer their full-time employees and dependents the opportunity to enroll in minimum essential coverage under Section 4980H of Title 26 of the United States Code.

California Government Code (GC) section 22772(a)(6)(A) and (B) provides that an employee not described in GC section 22772(a)(1)-(5), inclusive, meets the definition of an employee if he or she is both a “full-time employee” of the state or contracting agency within the meaning of Section 4980H of Title 26 of the United States Code and applicable United States Treasury Department regulations and interpretive guidance, and is designated in writing as an employee for purposes of GC section 22772 by the state or contracting agency, as applicable.

To mitigate the likelihood of federal assessable payments, CalPERS developed this Employer Designation model template to permit the state or contracting agencies to designate variable-hour employees to meet the definition of “employee” for purposes of GC section 22772 in order for these employees to enroll in a CalPERS health benefit plan. By doing so, this designation will assist the state and contracting agencies in complying with their obligations under the ACA to offer minimum essential coverage to their variable-hour employees.

## **INSTRUCTIONS**

### **Completing the Employer Designation:**

- 1) Complete the space in paragraph one with the full name of the Employer.
- 2) Complete the space in paragraph two with the full name of the employee meeting the designation criteria.
- 3) Complete the space in paragraph three with the date health coverage takes effect.

The Employer Designation must be completed by a human resources manager or other appropriate officer authorized to enroll on behalf of the Employer, an employee, as that term is defined in GC section 22772, into a CalPERS health benefit plan.

The Employer Designation is to include the human resources manager or officer's printed name, signature, job title, and date of signing.

### **Filing the Employer Designation:**

A completed Employer Designation should accompany the HBD-12 health enrollment form and be placed in the variable-hour employee's personnel file. Please do not return the Employer Designation to CalPERS: it is solely for the employer's internal records but must be retained and made available if requested by CalPERS.

### **Updating the Employer Designation:**

If a variable-hour employee is subsequently determined not to be an “employee” in accordance with the above statute, the employer must disenroll him or her, and any dependents, from the CalPERS health benefit plan in which he or she is enrolled after any applicable stability period is satisfied.

If the variable-hour employee later requalifies as an “employee” for purposes of GC section 22772, the human resources manager or officer should complete a new Employer Designation, accompanied by a new HBD-12 health enrollment form, for the employee's file.