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Distribution:

Special:

**TO: HEALTH BENEFIT OFFICERS AND ASSISTANTS OF  
CONTRACTING PUBLIC AGENCIES**  
**SUBJECT: GUIDANCE ON NEW LAWS FOR 2003**

This Circular Letter contains information to assist you in implementing new laws that will become effective on January 1, 2003.

**SENATE BILL 1464, CHAPTER 896, CHAPTER DATE 09-26 2002**

Senate Bill 1464 increases the Minimum Employer Contribution (MEC) for agencies participating in the Public Employees Medical and Hospital Care Act (PEMHCA) from \$16 per month per employee/annuitant to a maximum of \$97 per month in the 2008 calendar year. The increases will be incrementally applied to your CalPERS billing as shown below:

1. Prior to January 1, 2004, MEC = \$16 per month.
2. In calendar year 2004, MEC = \$32.20 per month. This adjustment will occur and become effective on January 1, 2004.
3. In calendar year 2005, MEC = \$48.40 per month. This adjustment will occur and become effective on January 1, 2005.
4. In calendar year 2006, MEC = \$64.60 per month. This adjustment will occur and become effective on January 1, 2006.
5. In calendar year 2007, MEC = \$80.80 per month. This adjustment will occur and become effective on January 1, 2007.
6. In calendar year 2008, MEC = \$97 per month. This adjustment will occur and become effective on January 1, 2008.

Commencing January 1, 2009, the employer's contribution will be adjusted annually by the CalPERS Board of Administration to reflect any change in the medical care component of the Consumer Price Index. There will be only one contribution to all annuitants receiving allowances as survivors of the same employee or annuitant.

**SB 1536, CHAPTER 898, CHAPTER DATE 09-26-2002**

## **Audits**

This bill added a provision to Government Code 22780 to allow CalPERS to audit an employer's records to ensure compliance with the provisions of PEMHCA. CalPERS may perform audits of each employer and may, at a specified time and location, require the employer to provide information or make available for examination, books, papers, data and records, as deemed necessary to determine compliance with the provisions of PEMHCA.

This provision will assist in managing costs by assuring that only eligible individuals are enrolled in PEMHCA, and that adverse selection is not a result of an employer inaccurately applying PEMHCA eligibility criteria to its employees.

## **Penalties for Late Payment of Premiums**

Section 22832 of Government Code is amended, and provides for the assessment of interest, at an annual rate of 10 percent, on delinquent payments. The penalty will be assessed once during each 30-day period that the amount remains unpaid and will include the cost of collection, and legal fees, when necessary to collect the amount due. Repeated delinquencies will result in an assessed penalty of 10 percent of the delinquent amount. Additionally, for repeated delinquencies, this new law authorizes the Board to require the delinquent agency to deposit one month's premiums in advance, as a condition of continued participation in the program.

Late payments of premiums could result in termination of coverage for an agency's current employees and retired employees.

## **Public Agency Premium Contributions**

This bill provides that health plan premiums paid by public agencies will be deposited and distributed through an account within the Public Employees' Contingency Reserve Fund (CRF), rather than the Health Care Fund (HCF). This bill creates a separate account within the fund for contracted health benefit plans, and authorizes the use of specified portions of the fund for cost containment programs and health benefits plan performance incentives. This bill also permits the Board to spend funds that are deposited in the CRF for administrative expenses, provided that the Department of Finance and the Joint Legislative Budget Committee approve these expenditures.

With funds being deposited in the CRF, CalPERS no longer has the flexibility it had in the past, to pay health plans when payments from employers are delinquent. This new law also makes it illegal to pay for health care premiums from appropriated funds.

In February 2003, an agenda item will be presented to the CalPERS Board of Administration that describes how:

- Penalties will be assessed against public agencies;
- Late fees will be administered for delinquent bills;
- Member coverage will be terminated; and
- Agencies will be terminated.

## **Limit Alternative Plans**

Agencies may offer health plans, including collectively bargained union health and welfare trust plans, to employees and annuitants of employee groups, (including collective bargaining units) if the contracting agency has not elected to provide coverage for that group in the CalPERS Health Benefits Program. In this case, PEMHCA requirements do not apply.

No alternative plans may be offered by agencies contracting with CalPERS for health coverage, except as follows:

1. An alternative health plan operating on July 1, 2002, or a self-insured alternative plan operating on January 1, 2003, shall be permitted to continue, as long as it meets and maintains the minimum standards for approved health benefit plans, prescribed by the CalPERS Board of Administration. A plan operating on July 1, 2002, may make a material change to the plan, including changing the plan's carrier. The plan may also cover dependents who are not eligible for enrollment under PEMHCA, if the member to whom the dependent belongs is also enrolled in the alternative plan.
2. An alternative health plan established by a contracting agency and approved by the CalPERS Board of Administration after July 1, 2002, shall be permitted to continue until December 31, 2004. The plan may only be offered in an area if:
  - There is no Board approved health maintenance organization (HMO) or exclusive provider organization (EPO) plan available, or
  - There is only one Board approved HMO plan available for enrollment, and the plan has less than 55 percent of the primary care physicians in its provider network available for new patients.

An alternative health plan created after July 1, 2002, shall abide by the following conditions:

- The contracting agency must reimburse CalPERS for reasonable administrative expenses if CalPERS has to provide special enrollment activities outside of the regular Open Enrollment period, because a contracting agency creates or terminates an alternative plan.
- The agency must notify the board by June 1, 2004, of its intent to terminate:
  - a. The alternative plan, or
  - b. Its participation in the CalPERS Health Program effective January 1, 2005.

If there are compelling circumstances in the region where the contracting agency is located, the CalPERS Board may extend an agency's ability to offer an alternative plan after the deadline, at its discretion.

### **Termination of Participation**

By resolution, the Board may delegate to staff the responsibility for terminating a contracting agency after a demand that the agency comply with provisions of PEMHCA or related regulations are ignored for three months. Any contracting agency, whose participation is terminated, retains the right to appeal the decision to the Board.

**AB 1908, CHAPTER 871, CHAPTER DATE 09-26-2002**

Assembly Bill 1908 deletes the requirement that the full cost of enrollment in the CalPERS Long-Term Care Program must be paid by the enrollee. This law permits employers to make contributions toward the premiums of this insurance.

**AB 2059, CHAPTER 733, CHAPTER DATE 09-20-2002**

Assembly Bill 2059 requires public agency employers to continue to make the "active" employee contribution for up to 120 days following the date of death, to the survivors of specified deceased active safety employees. For specified deceased active safety employees (if applicable), CalPERS will automatically bill the employer for the total premium.

We hope you find this information helpful. If you have any questions regarding this letter, please call the CalPERS Customer Contact Center at 1-800-352-2238.

Sincerely,

Tom Fischer, Chief  
Health Benefit Services Division