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**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 5. THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT [22750 - 22948]** ( Part 5 added by Stats. 2004, Ch. 69, Sec. 22. )

**CHAPTER 1. Public Employees' Health Benefits [22750 - 22944.6]** ( Chapter 1 added by Stats. 2004, Ch. 69, Sec. 22. )

**ARTICLE 5. Enrollment and Coverage [22830 - 22849]** ( Article 5 added by Stats. 2004, Ch. 69, Sec. 22. )

**22830.** (a) An employee or annuitant, under eligibility rules as prescribed by board regulations, may enroll in a health benefit plan approved or maintained by the board either as an individual or for self and family.

(b) Enrollment shall serve as authorization of the deduction of the contributions required under this part from the salary of an employee or allowance of an annuitant.

(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)

**22831.** (a) An annuitant may, as provided by regulations of the board, continue his or her enrollment, enroll within 60 days of retirement, enroll within 60 days of the death of the member, or enroll during any future open enrollment period without discrimination as to premium rates or benefit coverage. If the survivor of an annuitant is also an annuitant as defined in this part, he or she may enroll within 60 days of the annuitant's death or during any future open enrollment period, as provided by regulations of the board.

(b) Board rules and regulations shall provide whatever provisions necessary to eliminate or minimize the impact of adverse selection because of the enrollment of annuitants that would affect any health benefit plans approved or maintained. This may include the reimbursement of surcharges for late enrollment in Part B of Medicare if the board determines that payment of the surcharge would be less costly than continued enrollment in a basic plan.

(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)

**22832.** A permanent intermittent employee and an employee who works less than full time may continue his or her enrollment while retired from state employment if he or she was enrolled prior to separation from state employment, and he or she lost eligibility prior to separation but continued his or her coverage under federal law.

(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)

**22834.** (a) An out-of-state employee who separates from service and becomes an annuitant may continue his or her enrollment in a board-approved out-of-state health benefit plan or may transfer to any other health benefit plan approved or maintained by the board, in which the employee would otherwise be eligible to enroll. He or she must enroll in that health benefit plan within 60 days in order for health benefits to continue.

(b) An annuitant who leaves this state and elects to reside in another state in which a health benefit plan is approved or maintained by the board may transfer his or her enrollment to that health benefit plan and shall be entitled to the employer contribution as provided in this part.

(c) When an out-of-state employee receiving benefits pursuant to Section 22803 is permanently reassigned to perform his or her duties within the state, the benefits may be continued only until the employee has had reasonable opportunity to enroll in a health benefit plan within the state that is approved or maintained by the board.

(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)

**22836.** An employee enrolled in a health benefit plan who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified, unwarranted, or illegal may not be deprived of coverage or

benefits for the interim. Any contributions otherwise payable by the employer that were actually paid by the employee shall be restored to the same extent and effect as though the removal or suspension had not taken place, and any other equitable adjustments necessary and proper under the circumstances shall be made in premiums, claims, and other charges.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22837.** In the case of the death of an employee after an application has been filed for the enrollment of family members, but prior to the effective date of coverage, the family members are deemed to have been covered on the date of the death of the employee. If one of the family members becomes an annuitant, enrollment shall continue without discrimination as to premium rates or benefit coverage.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22838.** (a) An annuitant who reinstates from retirement pursuant to Article 7 (commencing with Section 21190) of Chapter 12 of Part 3 may, upon his or her subsequent retirement, elect to enroll in a health benefit plan approved or maintained by the board as an annuitant of the employer from which he or she was eligible to receive a postretirement health benefit contribution payable by that employer during his or her prior retirement, if both of the following apply:

(1) The subsequent retirement of that person occurs within 120 days after separation from employment or, if applicable, consistent with the provisions of subdivision (b) of Section 22893.

(2) That person is not eligible for a postretirement health benefit contribution from the employer from which he or she subsequently retires or the postretirement health benefit contribution payable by that employer is less than the contribution payable by that employer during his or her prior retirement.

(b) The postretirement health benefit contribution payable by an employer under this section shall be in lieu of a contribution payable to the annuitant by any other employer under this part.

(c) For purposes of calculating the employer postretirement health benefit contribution, the credited service of a person who enrolls as an annuitant pursuant to this section shall not include service performed for any other employer during his or her reinstatement from retirement.

(d) This section shall apply irrespective of whether the person receives health care coverage under this part during his or her reinstatement from retirement.

(e) An annuitant who is eligible to enroll pursuant to this section may enroll within 60 days after his or her subsequent retirement or during a future open enrollment period, as provided by regulation of the board, without discrimination as to premium rates or benefits coverage.

(f) This section shall only apply to an annuitant who, after reinstatement, subsequently retires on or after January 1, 2014.

*(Added by Stats. 2013, Ch. 525, Sec. 2. (AB 410) Effective January 1, 2014.)*

**22839.** Thirty days prior to, or 60 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan approved or maintained by the board and receive the applicable employer contribution, if the state employee would otherwise qualify as an annuitant.

*(Amended by Stats. 2009, Ch. 130, Sec. 33. (AB 966) Effective January 1, 2010.)*

**22840.** (a) Notwithstanding any other provision of law, a state employee participating in a flexible benefits program administered by the state, who either terminated enrollment in a health benefit plan approved or maintained by the board in reliance on other medical coverage or who was enrolled in a board-approved health benefit plan for self only, may enroll in a health benefit plan without regard to the open enrollment period for either of the following purposes:

(1) For self only or self and all eligible dependents, if the flexible cash option is discontinued.

(2) To add all eligible dependents, upon loss of coverage, where the flexible cash option has not been selected.

(b) Enrollment shall be requested within 60 calendar days of the loss of other coverage and submitted to the system by the employer. The effective date of enrollment shall be the first day of the month following the loss of other coverage. Enrollment shall entitle the employee to receive the benefit of the applicable employer contribution.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22841.** (a) A transfer of enrollment from one health benefit plan to another may be made by an employee or annuitant at times and under conditions as may be prescribed by regulations of the board.

(b) In the case of a health benefit plan in which services are provided by a limited panel of physicians associated with the plan, it is recognized that it may be impossible or impractical to maintain acceptable physician-patient relationships with particular employees, annuitants, or family members. In those cases, the employee or annuitant may submit the question of ability to maintain adequate physician-patient relationships for consideration under the grievance procedure provided pursuant to subdivision (d) of Section 22853. If the grievance procedure results in a determination that an adequate physician-patient relationship cannot reasonably be maintained, then the employee or annuitant may, in accordance with regulations of the board, change his or her enrollment to another health benefit plan without regard to physical condition, age, race, or other status.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22842.** A change in coverage based on a change in the family status of an employee, annuitant, or family member enrolled in a health benefit plan may be requested by the employee or annuitant by filing an application within 30 days after the occurrence of the change in family status or at other times and according to conditions as may be prescribed by regulations of the board.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22843.** If an employee or annuitant has a spouse or a domestic partner who is an employee or annuitant, each spouse or domestic partner may enroll as an individual. No person may be enrolled both as an employee or annuitant and as a family member. A family member may be enrolled in respect to only one employee or annuitant.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22844.** (a) Employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare shall not be enrolled in a basic health benefit plan. If the employee, annuitant, or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a Medicare health benefit plan.

(b) Employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare shall not be enrolled in a board-approved health benefit plan. This subdivision does not apply to an individual enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or federal regulation.

(d) The board shall not grant any further exemptions to this section after July 1, 2015.

*(Amended by Stats. 2015, Ch. 28, Sec. 5. (SB 98) Effective June 24, 2015.)*

**22846.** (a) The regulations of the board shall provide for the beginning and ending dates of coverage of employees, annuitants, and family members enrolled in a health benefit plan. The regulations may permit coverage to continue, in addition to any temporary extension of coverage otherwise authorized under this part, until the end of the pay period in which an employee is separated from service or until the end of the month in which an annuitant ceases to be entitled to an allowance. In case of the death of an employee or annuitant, the regulations may permit a temporary extension of the coverage of family members for a period of more than 30 days.

(b) Notwithstanding any other provision of this part, an employee terminating his or her service by voluntary separation or due to dismissal for cause, prior to eligibility for retirement, may extend enrollment until the end of the month following the month in which his or her service is terminated.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22847.** (a) Subject to subdivisions (b) and (c), if the eligible family members of a deceased peace officer or firefighter of a contracting agency, as described in subdivision (a) of Section 22820, are validly enrolled under this part on the date of the employee's death, the contracting agency shall continue to pay the employer contribution applicable to active employees for the continued enrollment of those eligible family members for a period not to exceed 120 days, beginning in the month of the employee's death.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of premium required from the employer under this part in accordance with regulations of the board. Enrollment of the eligible family members shall be continuous following the death of the employee.

(c) Notwithstanding subdivision (a), the contracting agency's obligation to pay the employer contribution pursuant to this section shall terminate upon either of the following:

- (1) Enrollment of the eligible family members pursuant to Section 22820.

(2) A final determination of the board that the deceased employee's family members are not eligible to enroll or continue enrollment under this part.

(d) During the period that enrollment is continued pursuant to this section, the surviving spouse or eldest eligible family member shall retain the rights and obligations that otherwise would be applicable to the employee under this part.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22848.** An employee or annuitant who is dissatisfied with any action or failure to act in connection with his or her coverage or the coverage of his or her family members under this part shall have the right of appeal to the board and shall be accorded an opportunity for a fair hearing. The hearings shall be conducted, insofar as practicable, pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3.

*(Added by Stats. 2004, Ch. 69, Sec. 22. Effective June 24, 2004.)*

**22849.** (a) Notwithstanding Section 22846, the Legislature shall, upon the death of a legislative employee while in service, continue to pay employer contributions for health benefits for a period not to exceed 120 days beginning in the month of the employee's death. The surviving spouse or other eligible family member shall be advised of all rights and obligations during this period regarding the continuation of health benefits as an annuitant by the Public Employees' Retirement System.

(b) This section shall apply to employees of the Legislature to the extent that the benefits have been elected. The employer for purposes of this section is the Senate or the Assembly as is applicable to the employee at death while in legislative service. The Senate Committee on Rules or the Assembly Committee on Rules, depending on the employment status of the decedent, shall provide the advisements required by subdivision (a).

*(Added by Stats. 2022, Ch. 189, Sec. 1. (SB 835) Effective January 1, 2023.)*