



## Board of Administration

# Agenda Item 8a4

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**November 16, 2022**

**Item Name:** Proposed Decision – In the Matter of the Appeal of Denial of Reimbursement at Nursing Home Benefit Rate of JEAN K. SPEES, Respondent.

**Program:** Strategic Health Operations Division

**Item Type:** Action

### **Parties' Positions**

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Jean K. Spees' (Respondent Spees) position is included in Attachment C, if any.

### **Strategic Plan**

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

### **Procedural Summary**

Respondent Spees requested that her reimbursement rate be increased from the lower daily Residential Care Facility Benefit rate to the higher Nursing Home Benefit rate. Her request was denied by the Long-Term Care Group, Inc. (LTCG) because her facility did not meet the requirements in her Evidence of Coverage (EOC). She appealed the denial to CalPERS, and CalPERS upheld LTCG's denial. The matter was heard by the Office of Administrative Hearings on August 1, 2022. A Proposed Decision was issued on August 22, 2022, affirming CalPERS' determination and denying the appeal.

### **Alternatives**

- A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517 (c)(2)(C) which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision by changing the agency's case number on the first page from 2020-0503 to 2021-0503, and hereby adopts as its own Decision the Proposed Decision dated August 22, 2022, as modified, concerning the appeal of Jean K. Spees; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated August 22, 2022, concerning the appeal of Jean K. Spees; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

C. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 22, 2022, concerning the appeal of Jean K. Spees, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

D. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated August 22, 2022, concerning the appeal of Jean K. Spees, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

E. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Jean K. Spees, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Jean K. Spees.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

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