

**ATTACHMENT C**

**RESPONDENT(S) ARGUMENT(S)**

MAY 13 2021

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TO: \_\_\_\_\_

FROM: 5TH FLOOR MED ROOM

FAX: 5108303944

TEL:

COMMENT:

05/13/2021 1:03PM (GMT-04:00)

Board of Administration  
CalPERS.

Ref. No. 2020-0840  
In the Matter of the Denial of Long-Term Care  
Benefit Eligibility of Melinda K. Leiser

Respondent's Argument

May 12, 2021.

Hon. Members of the Board:

I am writing to urge your adoption of the Proposed Decision of the Administrative Law Judge which concluded that eligibility for benefits under the LTC program was established by a preponderance of the evidence.

The issue was whether the conditions for benefit eligibility for long-term care coverage (i.e. residence at an assisted living facility) were met in September 2019 when I moved to Watermark, the assisted living residence.

The Factual Findings in the Proposed Decision details the evidence and testimony that describe my physical condition and cognitive impairment that meet the requirements of the EOC- deficiencies in two daily living activities or evidence of cognitive impairment. As the Proposed Decision states (in Factual Findings par. 16) this evidence " ... should have been sufficient to make respondent eligible".

Evidence also established, through medical evaluations, the presence of cognitive impairment.

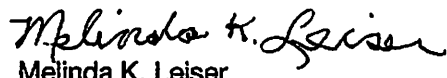
I also was advised by medical professionals that I "could not live independently" and this opinion was confirmed by my treating physician ( please see Factual Findings par. 17).

The two grounds for benefit eligibility provided in the EOC - deficiencies in two daily activities, OR presence of cognitive impairment are stated in the disjunctive as separate grounds for eligibility for coverage for assisted living. As the Proposed Decision states: "Each one of the conditions make her eligible for benefits under her long-term care coverage". (Legal Conclusions par. 2).

As a final point for the Board's consideration, the approval of benefit eligibility coverage by LTCG for the ensuing period, i.e. from March 2020, based on the same evidence and

evaluations used to deny coverage in September 2019, is the strongest acknowledgment that EOC requirements were met, and, therefore, it is respectfully submitted, that the Proposed Decision awarding reimbursement for services from September 2019 through March 2020 should be adopted.

Sincerely

  
Melinda K. Leiser  
Respondent

May 13, 2021  
April 26, 2021.

Cheree Swedensky , Assistant to the Board  
CalPERS Executive Office  
P.O. Box 942701  
Sacramento, CA 94229-2701

Ref.No. 2020-0840  
Respondent's Argument

Dear Ms. Swedensky:

Submitted herewith, via fax, is the Respondent's Argument to the above-referenced matter.  
Please file it so that it may be timely considered for the Board's hearing on this matter.

Thank you.

Sincerely,

*Melinda K. Lewis*  
MKL