



Board of Administration

Agenda Item 9a5

June 16, 2021

Item Name: Proposed Decision – In the Matter of the Denial of Long-Term Care Benefit Eligibility of MELINDA K. LEISER, Respondent

Program: Strategic Health Operations Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent Melinda K. Leiser's (Respondent Leiser) 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 Leiser purchased a comprehensive Long-Term Care (LTC) policy issued under the authority of the Public Employees' Long-Term Care Act. Ms. Leiser submitted a request for reimbursement under the LTC policy of certain costs she had incurred after moving to an assisted living facility. The Long-Term Care Program (Program) reviewed the facts, the applicable law and the applicable coverage provisions contained in the LTC policy's Evidence of Coverage (EOC) Comprehensive Plan booklet and determined that the costs incurred by Respondent Leiser between September 6, 2019 and March 2, 2020 were not eligible for reimbursement because she did not qualify for benefits during that time. Respondent Leiser submitted an appeal regarding CalPERS' denial concerning long-term care benefit eligibility, and the matter was heard by the Office of Administrative Hearings on March 1, 2021. A Proposed Decision was issued on March 24, 2021, granting Respondent Leiser's appeal.

Alternatives

A. 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 March 24, 2021, concerning the appeal of Melinda K. Leiser; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. 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 March 24, 2021, concerning the appeal of Melinda K. Leiser, 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.

- C. 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 March 24, 2021, concerning the appeal of Melinda K. Leiser, 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.

- D. 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 Melinda K. Leiser, 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 Melinda K. Leiser.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Donald Moulds
Chief Health Director
Health Policy and Benefits Branch