Board of Administration

California Public Employees' Retirement System

Agenda Item 9a

October 16, 2013

ITEM NAME: Petition for Reconsideration - In the Matter of the Application for Industrial Disability Retirement of RORY M. MAYBERRY, Respondent, and DEPARTMENT OF MENTAL HEALTH, VACAVILLE PSYCHIATRIC PROGRAM, Respondent.

PROGRAM: Benefit Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

Staff argues that the Board of Administration should deny the Petition for Reconsideration.

Respondent argues that the Board of Administration should grant the Petition for Reconsideration.

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

The Board, at its August 21, 2013, meeting adopted the Proposed Decision of the Administrative Law Judge. The Decision denied the application for Industrial Disability Retirement.

A Stay of Execution in the above matter has been granted so that the Petition for Reconsideration may be presented to the Board.

Respondent has been notified of the date of the Board meeting and of his opportunity to present written argument at the Board meeting on October 16, 2013.

ALTERNATIVES

A. For use if the Board decides to deny the Petition for Reconsideration:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System denies the Petition for Reconsideration submitted by Rory M. Mayberry concerning the Board's Decision of August 21,

2013; the Board's Decision of August 21, 2013, is effective immediately and the Respondent has 30 days to appeal to the courts.

B. For use if the Board decides to grant the Petition for Reconsideration and decide the matter upon the record. A transcript of the hearing would be provided to each Board member, and the Board would receive written and/or oral argument at a subsequent meeting and adopt a new decision upon reconsideration:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, grants the Petition for Reconsideration submitted by Rory M. Mayberry concerning the Board's Decision dated August 21, 2013; RESOLVED FURTHER that the reconsideration shall be made at a subsequent Board meeting, after notice is given to all affected parties, 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.

C. For use if the Board decides to grant the Petition for Reconsideration and assign the case to an Administrative Law Judge, subject to the procedures provided in Government Code section 11517. The matter would be remanded 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 grants the Petition for Reconsideration submitted by Rory M. Mayberry and concerning the Board's Decision dated August 21, 2013; RESOLVED FURTHER that the reconsideration shall be scheduled for hearing with the Office of Administrative Hearings, after notice is given to all affected parties, where the Administrative Law Judge may base his or her findings upon the record produced before the Administrative Law Judge at prior hearing(s) and any additional evidence including written and oral argument presented by the parties as may be permitted.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

Attachment A: Respondent’s Petition for Reconsideration
Attachment B: Staff’s Argument
Attachment C: Respondent’s Argument
Attachment D: Decision
Attachment E: Proposed Decision

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support