



## Agenda Item 8i

February 18, 2016

**ITEM NAME:** Proposed Decision – In the Matter of the Appeal Regarding the Denial of Retroactive Reimbursement of Health Plan Premiums by RICHARD E. MONTRE, Respondent.

**PROGRAM:** Member Account Management Division

**ITEM TYPE:** Action

### **PARTIES' POSITIONS**

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

Respondent Richard E. Montre (Respondent Montre) argues that the Board of Administration should decline to adopt the Proposed Decision.

### **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 Montre submitted an open enrollment health plan change from Health Net to Blue Shield of California on September 30, 2002. Respondent Montre was enrolled in Blue Shield of California/Blue Shield Access+ from January 1, 2003 through December 31, 2013. On October 21, 2013, Respondent Montre requested information on how to appeal his health plan enrollment with Blue Shield Access+, claiming that he should have been enrolled in Blue Shield NetValue. On October 24, 2013, CalPERS received a request from Respondent Montre for retroactive reimbursement of the difference in health plan premiums between Blue Shield Access+ and Blue Shield NetValue. CalPERS denied the request. Respondent Montre appealed this determination and the matter was heard by the Office of Administrative Hearings on November 4, 2015. A Proposed Decision was issued on November 25, 2015, denying the 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 November 25, 2015, concerning the appeal of Richard E. Montre; 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 November 25, 2015, concerning the appeal of Richard E. Montre, 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 November 25, 2015, concerning the appeal of Richard E. Montre, 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 Richard E. Montre, 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 Richard E. Montre.

**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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Deputy Executive Officer  
Customer Services and Support