



Agenda Item 8y

February 18, 2016

ITEM NAME: Proposed Decision – In the Matter of the Appeal of Beneficiary Allowance Upon the Death of David E. Yapple by CHRISTINE YAPPLE, Respondent.

PROGRAM: Benefit Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Christine Yapple 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

David E. Yapple (Decedent) retired for service on August 1, 1992. At the time of his retirement, Decedent selected the Option 2 allowance, and designated Mary J. Yapple as beneficiary for the monthly allowance and lump sum Retired Death Benefit. Mary J. Yapple passed away on May 27, 2005. On or about January 20, 2006, Decedent submitted an Application to Modify Option and/or Life Option Beneficiary to remove Mary J. Yapple as the beneficiary. On April 7, 2006, Decedent married Respondent Christine Yapple. On or about February 13, 2009, Decedent submitted the Application to Modify Option and/or Life Option Beneficiary form naming Respondent Christine Yapple as his new beneficiary. On or about March 18, 2009, CalPERS mailed a recalculation rejection letter to Decedent informing him that his application was not acceptable and could not be processed due to missing marriage and birth certificates. Decedent passed away on August 11, 2013. Respondent Christine Yapple received the lump sum Retired Death Benefit of \$500.00 and the prorated allowance of \$966.44 as the statutory beneficiary. CalPERS determined that Decedent did not submit a completed Modification of Original Election at Retirement Benefit Election form, and that Respondent Christine Yapple is therefore not eligible for the Option 2W lifetime beneficiary allowance. Respondent Christine Yapple appealed this determination and the matter was heard by the Office of

Administrative Hearings on December 15, 2015. A Proposed Decision was issued on December 22, 2015, denying Respondent Christine Yaple'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 December 22, 2015, concerning the appeal of Christine Yaple; 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 December 22, 2015, concerning the appeal of Christine Yaple, 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 December 22, 2015, concerning the appeal of Christine Yaple, 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 Christine Yaple, 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 Christine Yapple.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

- Attachment A: Proposed Decision
- Attachment B: Staff's Argument
- Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support