

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

David Yaple (Decedent) was employed by the City of Glendale from 1963 until he retired on August 1, 1992. By virtue of his service, he was classified as a local miscellaneous member of CalPERS. Decedent elected the Option 2 Allowance and designated his first spouse Mary Yaple as beneficiary for the monthly allowance and lump sum Retired Death Benefit. Mary Yaple passed away on May 2, 2005.

On January 20, 2006, Decedent submitted an Application to Modify Option and/or Life Option Beneficiary to remove Mary Yaple as the beneficiary.

On April 7, 2006, Decedent married Christine Yaple (Respondent Yaple).

On May 7, 2007, Decedent contacted CalPERS and requested a beneficiary change form to add Respondent Yaple as his beneficiary. On that same date, CalPERS mailed Decedent Informational Booklet PUB-98: "What You Need to Know About Changing Your Beneficiary or Monthly Benefit After Retirement." PUB-98 contains specific instructions to members on how to complete and submit a change form. It informs members that they must provide certain documentation that proves a qualifying event occurred, as well as documentation that confirms the new beneficiary's age. PUB-98 indicates that a certified marriage certificate is required to document a marriage as a qualifying event.

Regarding timelines, PUB-98 states:

Within 60 days after CalPERS has received your application and the necessary documentation, we will mail you the Modification of Original Election at Retirement document with your recalculated retirement allowance choices. The election document must be returned to us by the date indicated. If not, CalPERS will cancel your request to change your option.

CalPERS mailed PUB-98 to Decedent on four different occasions: May 2007, June 2007, November 2007 and January 2009.

On February 13, 2009, Decedent completed and executed an Application to Modify Option and/or Life Option Beneficiary, naming Respondent Yaple as his new beneficiary. The Application was filed with CalPERS on February 18, 2009.

On March 18, 2009, CalPERS mailed a recalculation rejection letter to Decedent, informing him that his Application had been rejected due to missing marriage and birth certificates.

On August 11, 2013, Decedent passed away.

On October 31, 2014, Respondent Yaple apologized for delays in submitting documentation, and mailed Decedent's death certificate, their marriage certificate and her birth certificate.

On December 5, 2014, CalPERS advised Respondent Yapple that it denied her request to receive a monthly allowance and continued health benefits as Decedent's beneficiary. CalPERS explained that the recalculation of options could only become effective if Decedent submitted the formal election document and both the Decedent and option beneficiary are alive when the recalculation of options was performed. CalPERS also noted that it had advised Decedent beginning in March 2009 that it was missing required documentation, that such documentation had never been received by CalPERS, and that there was no record of any further inquiry from Decedent regarding a beneficiary/option change request.

On December 29, 2014, Respondent Yapple appealed CalPERS' determination. A hearing was completed on December 15, 2015. The issue for hearing was whether CalPERS correctly determined that Respondent Yapple was not eligible for an Option 2W lifetime benefit allowance. Respondent Yapple did not appear at hearing, nor did she present witnesses or exhibits.

Prior to the hearing, CalPERS explained the hearing process to Respondent Yapple and the need to support her case with witnesses and documents. CalPERS provided Respondent Yapple with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Yapple's questions and clarified how to obtain further information on the process.

The Administrative Law Judge (ALJ) concluded that an applicant for benefits has the burden of proving that she is entitled to them. The ALJ found that Respondent Yapple failed to meet her burden of establishing that any error made by Decedent in failing to provide the requested documentation was the result of mistake, inadvertence, surprise or excusable neglect. The ALJ reasoned that Decedent and Respondent Yapple failed to make the inquiry that would be made by a reasonable person in like or similar circumstances. For these reasons, the ALJ found that Respondent Yapple was not eligible for an Option 2W lifetime beneficiary allowance.

The ALJ concluded that Respondent Yapple's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a motion with the Board under Government Code section 11520(c), requesting that, for good cause shown, the Decision be vacated and a new hearing be granted.

February 18, 2016


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