

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Nabeel L. Bechara (Respondent) established a CalPERS membership in 1981 through his employment with the California Department of State Hospitals. By virtue of his employment; Respondent and his dependents are eligible for health coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA).

On November 1, 2016, CalPERS sent a letter to Respondent informing him that his son, Alexander, would be turning 26 years old in February 2017. The letter advised Respondent that Alexander would automatically be deleted from Respondent's medical coverage effective the first day of the month following Alexander's 26th birthday. However, if Respondent's dependent remained incapable of self-support due to mental or physical disability, health coverage could be extended as a disabled dependent upon approval by CalPERS.

Respondent contacted CalPERS on December 19, 2016, and requested the appropriate forms required for his son to continue on his health coverage. CalPERS mailed Respondent a Member Questionnaire and Medical Report for the CalPERS Disabled Dependent Benefit (Medical Report). CalPERS informed Respondent that he had 60 days after his son turned 26 years old to submit the two forms.

On January 17, 2017, CalPERS received the Medical Report which was completed by Francis D. Shin, M.D., a Psychiatrist. Dr. Shin had last examined Alexander on May 11, 2012, and certified that Alexander had a disabling condition of permanent and extended duration and was not capable of self-support.

CalPERS received the Member Questionnaire signed by Respondent on January 9, 2017. However, the form was incomplete - all four questions on the form were unanswered. The questions elicited a "yes/no" response about Alexander's entitlement to Medicare and Social Security benefits and asked whether Alexander was economically self-sufficient.

On January 18, 2017, CalPERS sent Respondent a letter acknowledging receipt of the Medical Report but requested that the Member Questionnaire be completed and returned to CalPERS as soon as possible. Thereafter, on February 2, 2017, CalPERS sent Respondent a letter notifying him that effective March 1, 2017, Alexander would be deleted from Respondent's health and dental coverage due to him turning 26 years of age.

CalPERS received no further communication from Respondent until September 7, 2018, when Respondent contacted CalPERS to request that Alexander be added back onto his health and dental coverage as a disabled dependent.

Respondent sent CalPERS a request to enroll Alexander on his medical and dental coverage on October 26, 2018.

On October 31, 2018, CalPERS sent Respondent a pre-determination letter notifying Respondent that it was denying his request to add Alexander onto his health and dental coverage as a disabled dependent. CalPERS provided him 30 days to submit supporting information before making a final determination.

Respondent provided CalPERS with medical records and a copy of his divorce judgment on November 13, 2018.

On November 21, 2018, CalPERS notified Respondent that after an administrative review, CalPERS was denying his request to enroll Alexander as a disabled dependent. As the basis for the denial, CalPERS asserted that Respondent failed to submit the required documentation within 60 days of Alexander turning 26 years old which is required under California Code of Regulations, title 2, sections 599.500 and 599.501.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on September 3, 2019. Respondent represented himself at the hearing.

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

Respondent testified on his own behalf. He testified that in 2012, his wife filed for divorce which resulted in five or six years of litigation. During this time, Respondent was very distraught about the divorce and suffered from health problems. Respondent testified that his ex-wife moved to Texas in 2013, and his son, Alexander, went to live with her. When Respondent learned that Alexander was to be discontinued from coverage on his health insurance, he tried to contact his son to get information on his disability but received no response. Respondent testified that even though he could have completed the form without input from his son, the failure to complete the questionnaire was his son's fault. Respondent testified that he finally enrolled his son in Medi-Cal.

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent failed to comply with California Code of Regulations, title 2, section 599.501, subdivision (g), which requires a timely request to continue health benefits for his son as a disabled dependent. As such, CalPERS properly removed Respondent's son upon his reaching 26 years of age.

The ALJ also found that Respondent failed to present evidence that his failure to timely request the continuance of health care benefits for his son as a disabled dependent was not a mistake correctable under Government Code section 20160. CalPERS informed Respondent on January 18, 2017, that he needed to complete the Member Questionnaire form in order to process his request to maintain his son's health benefits as a disabled dependent. CalPERS again notified Respondent that his son would be removed from his health plan effective March 1, 2017. Respondent did not contact CalPERS regarding his son's removal until more than one year later, in October 2018. As of the date of the hearing, Respondent still had not completed the Member Questionnaire form.

In the Proposed Decision, the ALJ concluded that CalPERS' determination to deny Respondent's untimely request to add his son to his health plan was appropriate.

For all the above reasons, staff argues that the Proposed Decision be adopted by the Board.

November 20, 2019

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