

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Antoinette M. Moon (Respondent) is employed by Respondent California Department of Transportation (Respondent Caltrans). At all relevant times, Respondent and her dependents were eligible to qualify for CalPERS health benefits under Public Employees' Medical and Hospital Care Act (PEMHCA), if all eligibility requirements were met.

Patrick A. Moon (Patrick) is Respondent's son. Patrick was born in December 1981. Until he reached 23 years of age, Patrick received dependent health insurance coverage from CalPERS. On January 1, 2005, shortly after Patrick turned 23 years old, CalPERS terminated his health insurance coverage because he exceeded the maximum age limit for coverage, and he had not been approved for continued coverage pursuant to an exception authorized by the PEMHCA.

On March 19, 2018, a Caltrans representative contacted CalPERS on Respondent's behalf and inquired about the steps necessary to add Patrick to Respondent's health insurance coverage as a disabled dependent.

A CalPERS representative informed the Caltrans representative that Respondent had had 60 days from Patrick's 23rd birthday to continue his healthcare coverage as a disabled dependent but had not done so. The representative informed Caltrans that Respondent could submit a written request to add Patrick to her healthcare coverage along with an explanation that detailed why she did not request that Patrick's coverage be continued as a disabled dependent in 2004.

On April 9, 2018, Respondent submitted the following documents to CalPERS by facsimile: a CalPERS Member Questionnaire for the CalPERS Disabled Dependent Health Benefit form (Member Questionnaire) (HBD 98); a CalPERS Medical Report for the CalPERS Disabled Dependent Benefit form (Medical Report) (HBD 34); a copy of her Anthem BlueCross healthcare benefit card; a Valley Mountain Regional Center (VMRC) Authorization for the Release of Information form and a Transfer/Discharge form from San Joaquin County Mental Health Services.

The Medical Report form is required to approve a member's request to continue a disabled dependent on his or her health insurance. Part D of the Medical Report requires a physician's medical certification wherein a physician may, based upon the physician's examination, certify whether the individual who is the subject of the report is disabled and whether, in the physician's medical opinion, the disability renders the subject incapable of self-support. Part D of the Medical Report form Respondent submitted included no physician's certification nor any other information from a physician. Instead, a large handwritten note in the section states: "Autistic Not Going to Change."

On the facsimile cover sheet that accompanied Respondent's April 9, 2018 submission, Respondent included the following statement:

I have been getting the run around about getting my son on my insurance since 2004. When Patrick was going to turn 23 in 2004, I was told he could not be on my insurance because he was in a group home. I have since found out that was a lie. . . [W]hen he came back to live with me, I got another run around. I was told he could not be on my insurance because I was on Medi-Cal.

Patrick is Autistic, he is not going to get better, I am not going to make him take another battery of tests so you can have a doctor's form filled out. I have the paperwork to prove he is disabled and his condition will never change or update.

CalPERS reviewed all documentation Respondent submitted. By letter dated July 18, 2018, CalPERS denied her request to add Patrick to her benefits.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on June 20, 2019 and September 10, 2019. Respondent represented herself at the hearing. Respondent Caltrans did not appear at the hearing.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her 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.

CalPERS presented the testimony of Natalie Lua, an Associate Governmental Program Analyst for the CalPERS Health Benefits Unit. Ms. Lua testified that her review of Respondent's files revealed that Patrick was deleted from Respondent's healthcare coverage in January 2005, because he had reached the age of 23. She testified that Respondent could have requested Patrick's healthcare coverage be continued as a disabled dependent within 60 days before, and no later than 60 days after, Patrick turned 23 years old. Ms. Lua added that any requests to continue Patrick's coverage as a disabled dependent must include medical support identifying and describing the disability.

Ms. Lua testified that CalPERS did not receive any request or documents from Respondent indicating that she wanted Patrick's healthcare coverage to be continued as a disabled dependent within 60 days of his turning 23 years old. There was no record that Respondent made any request of this nature to CalPERS until April 2018. Since Respondent's April 2018 request to add Patrick to her medical benefits as a disabled dependent occurred over 13 years after Patrick turned 23, CalPERS denied the request.

Respondent testified on her own behalf. Respondent testified that she worked for Agnews Developmental Center (Agnews) when Patrick turned 23. Agnews was a psychiatric and medical care facility located in Santa Clara, California, which closed in

2009. As an Agnews employee, Respondent received health benefits through CalPERS.

According to Respondent, she submitted the paperwork required to continue Patrick's CalPERS healthcare coverage as a disabled dependent just before he reached 23 years of age. She testified that she submitted the paperwork to Agnews' personnel office but was told that because her son lived in a group home at the time, he was ineligible for continued coverage. Respondent could not specifically recall whether Agnews ever submitted the paperwork she provided to CalPERS.

Respondent testified that approximately 13 years later, while working for Caltrans, a coworker informed her that her son Patrick should have never been taken off of her healthcare coverage and that her request to continue his coverage as a disabled dependent should not have been denied. Based on this information, Respondent requested that her son be added to her healthcare coverage as a disabled dependent. Respondent testified that she did not have any portion of the documents she submitted to Agnews or CalPERS completed by a physician. She testified that "[she has] taken [Patrick] to medical doctors [but] medical doctors do not understand the problem. His disability is developmental. It's autism. Medical doctors cannot judge, and they keep trying to send [her] to medical doctors to find out what is wrong with [her] son, and they can't do anything. They don't know anything about autism."

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ explained that Respondent failed to establish that she should be allowed to enroll Patrick onto her CalPERS healthcare plan for several reasons. First, Respondent did not establish that Patrick qualified for continued coverage under her healthcare plan as a disabled dependent. Notwithstanding Respondent's conclusory statement, there was no evidence presented that Patrick has autism or a disabling condition as described in the PEMHCA regulations.

Respondent also failed to establish that she timely sought continuation of coverage for Patrick as a disabled dependent – there was no evidence that she requested that Patrick remain on her healthcare plan as a disabled dependent until 13 years after his 23rd birthday. Respondent also failed to present evidence that her failure to make a timely request was a mistake correctable under Government Code 20160.

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

December 18, 2019

Austa Wakily
Senior Attorney