

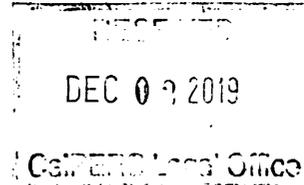
ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

1002

November 29, 2019

Cheree Swedensky, Assistant to the Board
CalPERS Executive Office
PO Box 942701
Sacramento, CA 94229-2701
Fax: (916) 795-3972



RE: **Petition for Reconsideration in the Matter of the Appeal of the Denial of Reimbursement for Long Term Care Benefits of Barbara Aske, by BRIAN ASKE, Respondent. OAH No. 2019030610**

Dear Board of Administration of the California Public Employees' Retirement System,

Please reconsider your November 20, 2019 decision to adopt the Administrative Law Judgment of Case No. 2018-1266, OAH No. 2019030610. The Board based its decision by relying on a process that was incomplete, disconnected and far from comprehensive. It did not consider many important factors and considerations.

Here are the reasons why you should reconsider your Decision:

1. CalPERS never responded to the Respondent's valid Discovery Request in preparation for the Administrative Hearing. This led to an unfair Administrative Hearing, as the Respondent was not provide copies of any of CalPERS' records or information.
2. The Decision did not consider that the Claims Administrator ignored Barbara Aske's primary qualifying condition of a severe cognitive impairment when administrating and cancelling her claim during the period in question. The Claims Administrator did not offer Care Advisory Services (p. 15 of E.O.C), as an appropriate assessment in March of 2011 would have helped guide her husband, H. Dale Aske, to setting up the correct care and clear documentation from the start. However, this did not happen.
3. One of the two CalPERS opposing arguments were based on a premise that part of Barbara Aske's supervision care was provided by her husband. This argument did not consider that Dale Aske was chronically ill himself as well, living in long term care and that he also had a CalPERS long term care policy that did not reimburse his care costs during the same period of time, either. The Proposed Decision, Factual Finding 23, on page 15 is incorrect. Hospice was never considered for Barbara Aske by her husband, H. Dale Aske. This statement is incorrect and was never stated at the Administrative Hearing or ever included in any documentation. It was H. Dale Aske that was qualified for hospice when they both moved into the long-term care facility in November 2012. The Administrative Law Judge could not have considered this circumstance as he seemed to mis-understand, H. Dale Aske's condition.
4. Neither the Decision of the Board, the Administrative Law Judge, or the Health Care Appeals unit addressed the fact that "Room and Board" from a long term care facility is a "mitigating", "maintenance" or "personal service" for someone with a Severe Cognitive Impairment who can't live on their own or make meals for themselves. Room and Board are therefore "Qualified Services" under the policy requiring reimbursement.
5. Neither the Decision of the Board, the Administrative Law Judge, or the Health Care Appeals unit addressed the fact that Barbara Aske had a written "Plan of Care" by a licensed Health Care provider that completely met the entire definition of a "Plan of Care" included in the Long Term Care Insurance policy, prior to moving into the Long Term Care Facility before the period of time

in question. This qualified her long-term care expenses and required them to be reimbursed under the policy.

Please reconsider your Decision to adopt the Proposed Decision in favor of a reconsideration to support your member and their beneficiaries. I strongly recommend that the CalPERS Board closely examine how your Long Term Care Insurance policy claims are actually being administered, especially in this case. This claim and case has not been administered consistently with CalPERS mission of delivering benefits to your members and their beneficiaries.

Thank you for review and consideration of this issue.

Sincerely,



Brian Aske

Executor and Trustee for the Estate of Barbara C. Aske and H. Dale Aske

Cc: Mathew G. Jacobs, General Counsel

Via Fax (916) 795-3659