

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION



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Date 11/27/19 Fax N _____

Attention Cheree Suxdensky Phone _____

From Anna Macanas Phone _____

E-mail _____

of pages transmitted (including this page) 8

DEC - 2 2019

URGENT FOR REVIEW PLEASE COMMENT PLEASE RECYCLE

Notes

Petition of Reconsideration

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California Public Employees' Retirement System
Legal Office

P. O. Box 942707, Sacramento, CA 94229-2707 | Phone: (916) 795-3675 | Fax: (916) 795-3659
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

November 21, 2019

Ref. No. 2018-1147

Via Overnight Mail

Anna Macanas

Subject: In the Matter of the Appeal for the Return of Benefits Paid Upon the Death of SUZANNE B. VLAVIANOS, by ANNA MACANAS, Respondent. OAH No. 2019050178

Dear Ms. Macanas:

We enclose a copy of the Board of Administration's Decision in the above matter. Please be advised that this Decision was made pursuant to the Administrative Procedure Act (Gov. Code, § 11370 et seq.) and California Code of Regulations, title 2, sections 555-555.4, on November 20, 2019. This Decision becomes effective 30 days after the date of mailing, which appears on the attached Proof of Service.

Any party who participated in this case and is dissatisfied with this Decision has a right to petition the Board for reconsideration within 30 days of the date of mailing of the Decision, and the right of appeal to the courts within 30 days after the last day on which reconsideration can be ordered. (See Gov. Code, §§ 11521 and 11523.) However, once the effective date of the Decision has passed, the Board loses the authority to reconsider its Decision, and your Petition for Reconsideration will be rejected. (Gov. Code, § 11521). It is not necessary that a Petition for Reconsideration be filed in order to appeal to the courts. (Gov. Code, § 11523.) If you choose to file a Petition for Writ of Mandate, please submit a written request to our office for preparation of the administrative record.

The Board's Decision is being mailed to you on November 21, 2019. Because the Board does not meet in January, any Petition for Reconsideration must be received by CalPERS' Executive Office by December 2, 2019, in order to be included in the Board's agenda for its December 18, 2019 meeting, which is the last day on which reconsideration can be ordered. (See Gov. Code, §§ 11521 and 11523.) If a Petition for Reconsideration is not received by December 2, 2019, the Board will not be able to act on it and the original effective date applies.

Please title your submission "Petition for Reconsideration" and ensure that all personal information has been redacted, as this will become a public document when included in the agenda item. Please send this to:

**Cheree Swedensky, Assistant to the Board
Executive Office
Fax: (916) 795-3972**

In addition, it is recommended that you send, via facsimile, a copy of any Petition for Reconsideration to the attention of Matthew G. Jacobs, General Counsel, at (916) 795-3659.

If you choose to respond via U. S. Mail, please send your Petition for Reconsideration addressed to Cheree Swedensky, Assistant to the Board, Executive Office, Post Office Box 942701, Sacramento, CA 94229-2701.

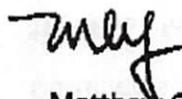
In an effort to expedite receipt of your Petition for Reconsideration, you can also send it via overnight mail addressed to Cheree Swedensky, Assistant to the Board, Executive Office, 400 Q Street, Lincoln Plaza North, Room 3340, Sacramento, CA 95811.

However, be advised that the fastest method of contacting CalPERS is via facsimile transmission.

ONLY THE ABOVE METHODS OF DELIVERY SHOULD BE UTILIZED IN TRANSMITTING A PETITION FOR RECONSIDERATION. DO NOT DROP DOCUMENTS OFF AT ANY CALPERS REGIONAL OFFICE IN LIEU OF THE ABOVE INSTRUCTIONS, AS THERE IS NO GUARANTEE THAT THOSE DOCUMENTS WILL BE RECEIVED BY THE BOARD UNIT IN A TIMELY FASHION.

If you do not file a Petition for Reconsideration or if your Petition for Reconsideration is denied, the next step in the appeal process is to file a Petition for Writ of Mandate in Superior Court.

Sincerely,



Matthew G. Jacobs
General Counsel
Legal Office

MGJ:kmp

Enclosure

DEC - 2 2019

Petition for Reconsideration 11/27/19

I have no problem paying back the amount owed from the date of her death till the end of November, 2017 minus that is the \$302. that CalPERS has already paid themselves from my state income tax before any hearings or decisions were held.

CalPERS have continually refused to work with me on this matter. I have also asked if the judgement is decided that I will need to pay back the total amount that they money is taken out of my CalPERS account, which I pay into.

My mother and father passed away believing that the money was theirs while they were living belonged to them.

Recipients and families are unaware that CalPERS demands to be payed back for the payment of the beneficiary's last month of life. I feel the CalPERS is very underhanded in the way they treat their people. I would like this case to set a precedent so as they are no longer allowed to steal the last benefit from deceased beneficiaries and families.

Documents for all points of argument have been submitted at the last hearing and should be on file.

Thank you for your consideration in this matter.

Sincerely,

Anna Macanas

First of all decision did not include the deduction that CalPers has already been paid via my state tax in the amount of \$302. Tax year 2018. 2nd my mother was denied by CalPers the right to see or change her beneficiary. As she asked via phone and we also submitted in writing. CalPers continued to ignore her request as well as her concerns telling them she had never set up the online account. had no access or knowledge of how to work computer. lastly I want to challenge the code 11370 that decision is based upon.

2510 →

recipients are entitled to all benefits while living. Your decision specifically contradicts this. Essentially stealing last payment to who or where they see fit.

Thank you for your consideration

Olivia Nakano



ES

Intercept Funds Notice - State Tax Refund

ANNA MACANAS

Account:

Tax Year: 2018

Why You Received This Notice

One or more agencies requested we intercept your state income tax refund to pay a debt their records state you owe. California law requires us to send your refund to the requesting agency. (California Code Sections 926.8 and 12419)

Funds Summary

Original Amount of Your State Income Tax Refund	Funds Requested by the Agency	Remaining Refund
\$302.00	\$302.00	\$0.00

What You Need to Do

Review your records, the agency name, and account information to determine if you agree or disagree that you owe this debt.

If You Agree

No action is required. The intercepted amount will be sent to the requesting agency to pay your debt and any remaining amount will be sent to you.

If You Disagree

Contact the requesting agency if you:

- Already paid the debt.
- Need additional information about the debt.
- Believe your refund was intercepted in error.

The Franchise Tax Board does not have detailed information about the debt or the authority to cancel it.

Agencies That Requested Your Refund

Agency Name	Agency Account	Amount Intercepted
CALPERS MEMBER AND HEALTH COLLECTIONS P O BOX 942703 ACCOUNTS RECEIVABLE SACRAMENTO CA 94229-2703 888.225.7377		\$302.00

4. Government Code section 21510 provides that "[a]ny payment of benefits by warrant issued after the death of the benefit recipient shall be refunded to the retirement system." Additionally, Government Code section 21267, subdivision (b) provides that "[a]ny payments directly deposited by electronic fund transfer following the date of death of a person who was entitled to the receipt of the benefits from a state retirement system shall be refunded to the retirement system."

5. Based on all the Factual Findings, and Factual Findings 18 through 20 in particular, CalPERS properly determined that respondent is the responsible party to repay CalPERS for an overpayment of \$3,844.53 that was deposited into the bank account of decedent, Suzanne Vlavianos, after her death. Furthermore, respondent has not established any affirmative defense that precludes recovery of the overpayment.

ORDER

The appeal of respondent Anna Suzanne Macanas is DENIED. The decision by CalPERS that respondent is the responsible party to repay CalPERS for the overpayment of \$3,844.53 is AFFIRMED.

DATE: September 6, 2019

have already Pd. \$302 of this amount.

Designated by:
Wim van Rooyen
4PC811854A85484

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings