



Board of Administration Educational Day

Action Item – Proposed Decisions of Administrative Law Judges 11. Feimata Kamanda

January 17, 2023

Item Name: Proposed Decision – In the Matter of the Appeal of Accepting the Late Application for Industrial Disability Retirement of FEIMATA KAMANDA, Respondent, and CALIFORNIA MEDICAL FACILITY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, Respondent.

Program: Disability and Survivor Benefits Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Feimata Kamanda's (Respondent) position is included in Attachment C, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent submitted a late application for disability retirement. CalPERS denied Respondent's request to change from a service retirement to a disability retirement because she was unable to establish that a correctable mistake had been made pursuant to Government Code section 20160. Respondent appealed and the matter was heard by the Office of Administrative Hearings on October 19, 2022. Due to Respondent California Medical Facility, California Department of Corrections and Rehabilitation's (Respondent CDCR) failure to appear, the case proceeded as a default under Government Code section 11520 as to Respondent CDCR only. A Proposed Decision was issued on November 18, 2022, denying CalPERS' determination and granting the appeal.

Alternatives

- A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517 (c)(2)(C) which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision, by correcting the citation to "Business and Professions Code" to the correct citation of the "Government Code" on page 9 paragraph 35 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated November 18, 2022, as modified, concerning the appeal of Feimata Kamanda; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated November 18, 2022, concerning the appeal of Feimata Kamanda; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- C. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated November 18, 2022, concerning the appeal of Feimata Kamanda, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- D. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated November 18, 2022, concerning the appeal of Feimata Kamanda, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- E. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Feimata Kamanda, as well as interested parties, to submit written argument

regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Feimata Kamanda.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
Deputy Executive Officer
Customer Services and Support