

ATTACHMENT A
PROPOSED DECISION

**BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA**

**In the Matter of Appeal of Lifetime Beneficiary Benefit
Payable Upon the Death of Evelyn L. Alford by:**

PAULA A. LEHN and MICHAEL S. ALFORD, Respondents

Agency Case No. 2024-0516

OAH No. 2025040199

PROPOSED DECISION

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on March 23, 2026, from Sacramento, California.

Sean Stowers, Senior Attorney, represented Kimberlee Pulido, Chief Retirement Benefit Services Division, California Public Employees' Retirement System (CalPERS).

Ellen Mendelson, Attorney at Law, represented respondents Paula A. Lehn and Michael S. Alford, who both appeared at the hearing.

Evidence was received, and the record was held open to allow the parties to file closing briefs. Respondents' closing brief was marked as Exhibit Q. CalPERS's closing brief was marked as Exhibit 19. Respondents' reply brief was marked as Exhibit R.

CalPERS reply brief was marked as Exhibit 20. The briefs were admitted as argument. The record closed, and the matter was submitted for decision on May 15, 2026.

ISSUE

The issue on appeal is whether CalPERS, in accordance with the Public Employees Retirement Law (PERL), correctly determined that respondents Lehn and Alford are not entitled to a lifetime monthly benefit from Decedent Evelyn L. Alford's retirement.

FACTUAL FINDINGS

Background

1. On July 14, 1969, Evelyn L. Alford (Decedent) became a member of CalPERS through her employment with the City of Hanford. She was last employed as an Accountant with the City of Hanford.
2. On or about November 13, 2001, Decedent submitted to CalPERS a "Lump Sum Beneficiary Designation" form and elected "Option 4 – Option 1 Balance," naming her children, respondents Lehn and Alford, as lump sum beneficiaries.
3. On December 21, 2001, Decedent submitted to CalPERS a "Service Retirement Election Application" and elected retirement payment "Option 4" which is "Option 2W & Option 1 Combined," naming her husband, Shelly A. Alford, as the Option 2W monthly lifetime beneficiary and the Option 1 lump sum beneficiary. Decedent retired from service effective December 1, 2001.

CALCULATION OF RETIREMENT BENEFITS AND RETIREMENT OPTIONS

4. Tara Hench is an Analyst II with CalPERS in the Retirement Benefits Services Division. Ms. Hench testified at hearing that she has worked for CalPERS for 11 years. Ms. Hench has reviewed Decedent's retirement application and Decedent's change of her death beneficiary designation.

5. Ms. Hench explained that CalPERS calculates a member's retirement benefit by first determining the member's unmodified allowance. This is the "member service credit multiplied by an age factor, which is a percentage based on their age at retirement." That number is multiplied by an average final compensation, which is the member's highest 12 months of salary, which provides the unmodified allowance. The unmodified allowance does not allow for any lifetime beneficiaries or any beneficiary to receive a benefit after the member's passing.

6. In December 2001, Decedent selected retirement Option 4, which is a combination of Option 2W and Option 1. Ms. Hench explained that Option 2W includes a life contingency of a beneficiary. This allows a member to choose a lifetime beneficiary to receive one hundred percent of what the member is receiving at the time of their passing. The "W" means that if her beneficiary were to predecease her, Decedent waives her right to receive the higher unmodified allowance amount. Decedent received a higher monthly retirement allowance in exchange for not being able to receive the unmodified allowance if Shelly A. Alford predeceased Decedent.

Ms. Hench explained that the Option 1 portion Decedent selected allowed her to select a beneficiary, to receive any lump sum payout of her own member contributions and interest. Decedent also selected her husband, Shelly A. Alford, as the beneficiary for any lump sum payout.

DECEDENT'S ATTEMPTS TO CHANGE BENEFICIARY DESIGNATION

7. On December 22, 2020, Shelly A. Alford passed away. Decedent did not notify CalPERS that Shelly A. Alford passed away. Decedent did not change the beneficiary designation for the Option 4 retirement benefits.

8. On January 5, 2022, respondent Lehn accessed Decedent's "myCalPERS" online account and sent the following message to CalPERS:

Hi, I have POA [power of attorney] for my mom, Evelyn Alford. It should be on file with CalPERS as we did it years ago on the CalPERS forms. I also have a general POA. She has dementia and it is getting worse. My dad, her survivor beneficiary, passed away from COVID. I did not realize we needed to update information on CalPERS and read that by not updating information within 12 months of the qualifying date, it will take 12 months for the changes to take effect. Is there a way to have this reconsidered? We just moved my mom back from Reno, NV to a retirement home around the corner from here in California to take care of her. As you can imagine, the last year has been difficult and continues to be such, caring for her, trying to settle my dad's things, et cetera. I truly appreciate your help and consideration. Sincerely, Paula Lehn, daughter, POA.

9. CalPERS prohibits anyone other than the CalPERS member from accessing their myCalPERS account. Because respondent Lehn accessed the myCalPERS

account, on January 6, 2022, CalPERS placed an administrative lock on Decedent's myCalPERS account to ensure there was no further unauthorized access.

10. On January 7, 2022, respondent Lehn submitted to CalPERS a Special Power of Attorney designating respondents Lehn and Alford as Decedent's attorneys-in-fact effective March 14, 2019. The cover letter respondent Lehn submitted to CalPERS read in part that:

Please, see attached Power of Attorney enacted March 14, 2019. Please, attach to her file and provide confirmation so my brother and I can handle her CalPERS affairs.

Our dad, her lifetime survivor beneficiary (If I'm using the right verbiage) passed 12/22/2020. Due to my mom's illness (Dementia/Alzheimer), we were not aware we needed to inform CalPERS of the passing. While verifying year-end information, I found information she is eligible to change beneficiaries. We are considering this, however, would like to speak to someone about it, the pros and cons, etc.

The Special Power of Attorney Decedent executed had the option to give respondents Lehn and Alford the authority to create or change a beneficiary designation. However, Decedent did not select the option to authorize respondents Lehn and Alford to create or change beneficiary designations.

11. On January 12, 2022, CalPERS sent Decedent a letter approving the Special Power of Attorney. The letter stated in part that:

To safeguard our members' personal information, your attorney(s)-in-fact is not allowed to access your online myCalPERS account. Your attorney(s)-in-fact may only conduct business with us on your behalf by telephone, by written correspondence, or by visiting a CalPERS Regional Office.

If you have any questions, please visit our website at www.calpers.ca.gov, or you may call us toll free at 888 CalPERS (or 888-225-7377).

12. Ms. Hench explained that in January 2022, Decedent could transact CalPERS business using her online myCalPERS account. However, respondent Lehn was not authorized to use myCalPERS. Respondent Lehn could handle Decedent's CalPERS matters by telephone, mail, or in person at a CalPERS office. Ms. Hench explained that even though the COVID-19 pandemic was still active, CalPERS offices were open and there was not reduced staffing.

13. On January 20, 2022, respondent Lehn called CalPERS and requested information to modify Decedent's retirement option election to change her life option beneficiary designation. The CalPERS representative informed respondent Lehn the requested information was mailed. She also informed respondent Lehn that it takes CalPERS approximately 30 days to process the forms once received. The same day, CalPERS mailed respondent Lehn CalPERS Publication 98 "Changing Your Beneficiary or Monthly Benefit After Retirement."

14. Relevant portions of Publication 98, pages 6 and 7, provide:

ADD OR CHANGE A PAYMENT OPTION BENEFICIARY

When you retired, you chose either a payment option for your lifetime only, or one that would leave a lump-sum benefit, a continuing monthly benefit, or a combination of the two, to a named beneficiary (or beneficiaries). If your circumstances have since changed and you want to make a change to your original selection, you may only do so if you have a qualifying life event. This is called the **Modification of Original Election at Retirement** process.

Qualifying life events may be:

- Marriage
- Domestic partnership
- Death of your beneficiary
- Annulment of marriage
- Being awarded your entire CalPERS interest upon
 - Divorce
 - Legal Separation
 - Termination of domestic partnership

[¶] . . . [¶]

When Your Changes Take Effect

If you make an election to change your original retirement selection **within 12 months** of the qualifying event, the change takes effect the first day of the month following receipt of your completed election document.

Example: Your qualifying event date was May 1, 2021, and you submitted your completed election document on July 15, 2021. The effective date of change would be August 1, 2021.

If you make an election to change your original retirement selection **more than 12 months** after the qualifying event, the change does not take effect until 12 months after you make the election. By law, both you and your new beneficiary must be living on the deferred election effective date or the change cannot be processed.

Example: Your qualifying event date was January 1, 2020, and you submitted your completed election document on February 12, 2021. Your deferred election effective date would be March 1, 2022.

(Bold in original.)

15. On or about February 7, 2022, CalPERS received Decedent's Modification of Option and/or Life Option Beneficiary (MOLOB) Estimate Request Form, which removed Shelly A. Alford as lifetime beneficiary and named respondents Lehn and Alford as life option beneficiaries to receive equal share.

16. By letter dated February 9, 2022, CalPERS sent Decedent the MOLOB estimate packet which included a "Modification of Original Election at Retirement Estimate" for the effective date of change of April 1, 2023; a retirement options and description chart; and a "Modification of Election at Retirement" election form. CalPERS provided Decedent until March 31, 2022, to return the completed MOLOB election form with Decedent's signature notarized or her request would be canceled. The letter states in pertinent part that:

The effective date of change. This is the date your new retirement option and beneficiary change would take effect. The effective date is deferred for one year when the election to modify your option is made more than 12 months after your qualifying event date. Both you and your beneficiary must be alive on the effective date of change.

17. On March 14, 2022, CalPERS received the MOLOB election form naming respondents Lehn and Alford as the life option beneficiaries, with respondent Lehn's signature notarized instead of Decedent's signature.

18. On March 17, 2022, and March 18, 2022, a CalPERS representative contacted respondent Lehn and informed her that CalPERS was unable to process the MOLOB election because respondent Lehn as POA was not authorized by Decedent to create or change beneficiaries. CalPERS requested resubmission of the MOLOB election with Decedent's notarized signature.

19. On March 28, 2022, CalPERS received a MOLOB election form with Decedent's signature notarized. By letter dated March 29, 2022, CalPERS informed

Decedent that her MOLOB election had been processed, and the effective date of the election is April 1, 2023.

20. On January 31, 2023, CalPERS sent Decedent a letter reminding her that the effective date of the MOLOB election was April 1, 2023. CalPERS stated in the letter that Decedent and her new beneficiaries must be alive on the effective date.

21. On February 3, 2023, Decedent passed away. At the time of her death, all of Decedent's CalPERS contributions and interest had been expended and, therefore, there was no Option 1 lump sum benefit to be paid. Additionally, Decedent's death was before the April 1, 2023, effective date of the MOLOB election. As a result, on March 21, 2023, CalPERS canceled the MOLOB election.

22. By letter dated May 5, 2023, respondents disputed the cancellation of Decedent's MOLOB election and requested reconsideration.

23. By letters dated October 4, 2023, CalPERS denied respondents' request for reconsideration. CalPERS informed respondents Lehn and Alford that Decedent's MOLOB election can become effective only if both Decedent and they are alive on the effective date of April 1, 2023. The letter states in part that:

Government Code section 21464 states an election made under this section shall become effective no earlier than 12 months after we receive the election, provided that neither the member nor the designated beneficiary die[s] prior to the effective date of the election. Ms. Alford's beneficiary passed away on December 22, 2020[,] and CalPERS received the valid Modification of Original Election at Retirement form on March 29, 2022; therefore, the effective date of the

change could be no earlier than April 1, 2023. Since Ms. Alford passed away prior to the effective date of the election, we have no authority to pay you a continuing monthly lifetime benefit.

24. Ms. Hench explained that the purpose of the 12-month waiting period provided for in Government Code section 21464 is to prevent "deathbed elections." The Legislative history of Government Code section 21464 confirms this intent. A deathbed election occurs when a member is about to die and elects a beneficiary. CalPERS presumes that they would not have the capacity to make such an election when nearing death. The 12-month waiting is a safeguard against such elections.

25. Ms. Hench further explained that if Decedent had contacted CalPERS to change her beneficiary designation within 12 months of her husband passing, CalPERS would have immediately processed the change in beneficiary option election and there would have been no waiting period. However, because she waited more than 12 months to inform CalPERS and request the change, the 12-month waiting period set forth in Government Code section 21464 applies.

26. CalPERS informed respondents of their right to file a written appeal of the CalPERS determination. On December 27, 2023, respondents submitted an appeal of CalPERS determination.

27. On March 28, 2025, complainant signed and filed a Statement of Issues. The matter was set for an evidentiary hearing before an ALJ of OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Respondents' Additional Evidence

28. Respondent Lehn testified at hearing that Decedent was not aware, when her father died, that Decedent needed to inform CalPERS. On January 5, 2022, respondent Lehn was gathering end of the year tax information for Decedent. Respondent Lehn contends Decedent provided her with the myCalPERS password to access her myCalPERS account. They were sitting together when respondent Lehn sent the message through myCalPERS asking for information concerning how to submit a beneficiary change.

29. On January 7, 2022, respondent Lehn learned that she was locked out of Decedent's myCalPERS account. She contacted CalPERS and was told that she needed to submit the POA. Respondent Lehn did so, and it was accepted by CalPERS.

30. Respondent Lehn did not learn until March 17, 2022, after she submitted the MOLOB election, that the POA she submitted did not authorize her or respondent Alford to create or change beneficiaries. Respondent Lehn contends she was initially told by someone at CalPERS that she could sign the MOLOB election.

31. Respondent Lehn also stated that no one from CalPERS told her that she could visit a CalPERS office to have Decedent change her beneficiary designation. Rather, she was told that the changes had to be submitted through the mail. Respondent Lehn does not know if CalPERS had COVID-19 restrictions related to office hours. However, respondent Lehn contends that the COVID-19 pandemic caused delays in her ability to submit paperwork to CalPERS, and there were also delays in receiving mail from CalPERS.

Parties' Arguments

RESPONDENTS' ARGUMENTS

32. Respondents argue that CalPERS's "active interference" with Decedent's attempted change to her beneficiaries by restricting their access to her myCalPERS online account, providing inaccurate guidance, and refusing to assist the Decedent delayed the processing of the MOLOB election. Respondents contend that if CalPERS had provided Decedent with the correct information regarding how to change her beneficiary designation, the MOLOB election would have been processed by CalPERS by the end of January 2022, more than 12 months before Decedent's death.

33. Respondents argue that the California Supreme Court in *Watenpaugh v. State Teachers Retirement System*, (1959) 51 Cal.2d 675, held that strict compliance with the requirements for benefits under public employee retirement systems is not always required. The court of appeal followed the California Supreme Court's ruling in *Watenpaugh* in *Manderson-Saleh v. Regents of University of California* (2021) 60 Cal.App.5th 674, 704, by finding that the Regents' failure to honor the member's designation of beneficiary that was not effectively submitted and approved before her death was an abuse of discretion. The court of appeal also held that the substantial compliance doctrine required the Regents to grant the claim for benefits.

34. Respondents argue that the same reasoning articulated in *Manderson-Saleh* should be applied to their case. Respondents argue that based on CalPERS's failure to advise them in January 2022 that the POA was "not sufficient to change beneficiaries, coupled with the Covid shutdowns, and the unilateral termination of electronic access, it is abundantly clear that CalPERS breached its fiduciary duties, and

[its] refusal to apply the substantial compliance doctrine is arbitrary and capricious and will frustrate the intent of the member.”

35. Respondents also argue that Government Code Section 20160 allows for “retroactive correction of mistakes” when the error is a result of “mistake, inadvertence, surprise, or excusable neglect.” Respondents contend that it was “abundantly clear” that Decedent wanted to change her beneficiaries in January 2022. However, the MOLOB election was not filed until March 2022 due to the issue with the POA. Respondents argue the “delay in providing this information and completing the process was the result of mistake on the parts of both parties.” As a result, respondents argue, Government Code 20160 allows CalPERS to correct the mistake and enforce the MOLOB election.

CALPERS’S ARGUMENTS

36. CalPERS contends that it interpreted and applied Government Code section 21462 “consistent with the plain meaning of the statute, and with its purpose and legislative history” when determining that Decedent’s MOLOB election was not effective because Decedent was not alive on April 1, 2023. CalPERS argues that on multiple occasions, CalPERS informed the Decedent in writing that her “new beneficiary designation would only go into effect after the conclusion of a 12-month waiting period, and that if she or the new beneficiaries passed away during the waiting period, the new beneficiary designation would fail.”

37. Respondent Lehn on behalf of Decedent filed the first MOLOB election on March 14, 2022. CalPERS rejected the MOLOB election because the POA Decedent signed did not authorize respondent Lehn to create or change beneficiary designations. On March 28, 2022, Decedent submitted a valid MOLOB election which

CalPERS accepted. CalPERS contends that even if the March 14, 2022, MOLOB election was accepted by CalPERS, it still would not have become effective because Decedent died less than 12 months after that date.

38. CalPERS also argues that the doctrine of substantial compliance does not apply to respondents' case. CalPERS argues that *Manderson-Saleh* "concerns a different law with a very different purpose." CalPERS explains that in "*Manderson-Saleh*, the relevant regulation required that beneficiary designations be 'received by the Plan Administrator prior to the Member's date of death.' (*Id.* at 696.) The Court held that the purpose of the regulation was to 'ensure the employee's final intent is realized as to his or her desired beneficiary.' (*Id.* at 704.)"

In contrast, the intent of Government Code section 21462 and the 12-month waiting period is to prevent deathbed election or elections of new beneficiaries too close in time to the death of the retiree. CalPERS argues that applying the doctrine of substantial compliance here would render Government Code section 21462, subdivision (c), "meaningless and undermine its purpose."

39. CalPERS also contends that Government Code section 20160 "by its own language, specifically prohibits its application in the manner Respondents seek," which would give them a "right that is not otherwise available under the PERL, namely, the right to designate a new beneficiary more than 12 months after the death of the prior beneficiary without complying with the subsequent 12-month waiting period required under Section 21462(c)." CalPERS argues that Government Code section 20160 "cannot be used for this purpose, as it would essentially give the Member and Respondents additional privileges, rather than correcting errors."

LEGAL CONCLUSIONS

1. CalPERS is governed by the PERL. The purpose of the PERL is "to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits." (Gov. Code, § 20001.)

2. Deference to CalPERS's interpretation of the PERL is "in recognition of the fact that, as the agency charged with administering the PERL, [Cal]PERS has expertise and technical knowledge as well as an intimate knowledge of the problems dealt with in the statute and various administrative consequences arising from particular interpretations." (*City of Pleasanton v. Bd. of Admin. of the Cal. Public Employees' Retirement System* (2012) 211 Cal.App.4th 522, 539.)

3. Pension legislation should be liberally construed, and all ambiguities should be resolved in favor of the pensioner. (*In re Retirement Cases* (2003) 110 Cal.App.4th 426, 473.) "However, this rule of liberal construction is applied for the purpose of effectuating obvious legislative intent and should not blindly be followed so as to eradicate the clear language and purpose of the statute." (*Barrett v. Stanislaus County Employees Retirement Assn.* (1987) 189 Cal.App.3d 1593, 1603.)

Burden of Proof and Applicable Law

4. "As in ordinary civil actions, the party asserting the affirmative at an administrative hearing has the burden of proof, including both the initial burden of going forward and the burden of persuasion by a preponderance of the evidence"

(*McCoy v. Bd. of Retirement* (1986) 183 Cal.App.3d 1044; also see Evid. Code, § 500.)

The preponderance of the evidence standard requires respondents to present evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In this case, respondents have the burden to prove by a preponderance of the evidence that they are entitled to a lifetime monthly benefit from Decedent's retirement.

BENEFICIARY DESIGNATION AND RETIRED DEATH BENEFITS

5. Government Code section 21451 provides that:

In lieu of the retirement allowance for his or her life alone, a member or retired member may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. The election or revocation or change thereof, with respect to a member subject to Section 21624, 21629, or 21630 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, the member has no spouse, children, or dependent parents who would qualify for an allowance under Section 21624, 21629, or 21630, as applicable, after the death of the member; or, if at retirement there are persons who would so qualify, then the election, or revocation, or change thereof, with respect to any optional settlement other than optional settlement one,

shall apply only to the portion of the allowance that exceeds the amount of the allowance payable to the survivor.

[¶] . . . [¶]

This section shall apply to any member who retires on or before December 31, 2017.

6. Government Code 21462 provides in relevant part that:

(a)(1) Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4 at retirement, involving a life contingency of the beneficiary, may, if the beneficiary predeceases the member or if the member marries and the former spouse was not named as beneficiary, or, if a former spouse was named, in the event of a dissolution of marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, or in an annulment of marriage in which the court confirms the annulment, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's

remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary.

[¶] . . . [¶]

(b) The election provided by this section is irrevocable and shall be made within 12 months following the death of the beneficiary who predeceased the member, within 12 months of the date of entry of the annulment of marriage or judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in this system under this section.

(c) A member who has a qualifying event prior to January 1, 1988, and who fails to elect by January 1, 1989, or a member who has a qualifying event on or after January 1, 1988, and who fails to elect within 12 months, shall retain the right to make an election under this section. However, this election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die[s] prior to the effective date of the election.

[¶] . . . [¶]

(f) This section shall apply to any member who retires on or before December 31, 2017.

7. Government Code section 21490 provides that:

(a) Except as provided in subdivision (b), a member may at any time, including, but not limited to, at any time after reaching retirement age, designate a beneficiary to receive the benefits as may be payable to his or her beneficiary or estate under this part, by a writing filed with the board.

[¶] . . . [¶]

(c) The designation, subject to conditions imposed by board rule, may be by class, in which case the members of the class at the time of the member's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity or other facts relating to entitlement of any person designated as beneficiary, and payment made by this system in reliance on any determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of this system for further liability for the benefit.

AUTHORITY TO CORRECT AN ERROR OR OMISSION

8. Government Code section 20160 provides that:

(a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20164.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

Cause for Denial of Appeal

9. When all of the evidence is considered, respondents Lehn and Alford failed to prove by a preponderance of the evidence that they are entitled to a lifetime monthly benefit from Decedent's retirement. Government Code section 21462, subdivision (c), specifically states that a member who fails to elect a new beneficiary within 12 months of a qualifying event retains the right to make an election, but the election "shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die[s] prior to the effective date of the election."

10. At the time Decedent retired in December 2001, she named her husband, Shelly A. Alford, as the beneficiary for the Option 4 retirement benefits. Shelly A. Alford died in December 2020, which was a qualifying event. Decedent did not inform CalPERS of her husband's death or change her beneficiaries within 12 months of his death. As a result, any change she made would not be effective until 12 months after

the date it is filed with CalPERS provided that she did not die prior to the effective date of the election.

11. It was not until January 5, 2022, that respondent Lehn informed CalPERS that Shelly A. Alford died. She accessed Decedent's myCalPERS account and sent a message stating that her father died and that Decedent had "dementia and it is getting worse." Respondent Lehn stated in this message that she was aware that because Decedent did not change her beneficiary within 12 months after her father died it would take 12 months for a change to be effective.

Two days later, respondent Lehn was told by CalPERS that she was not authorized to access Decedent's myCalPERS account. She was told by CalPERS to submit proof of POA. Respondent Lehn did so on January 7, 2022, with a statement that she learned Decedent could change beneficiaries but "would like to speak to someone about it, the pros and cons, etc." CalPERS confirmed receipt of the POA on January 12, 2022. The POA did not give respondents the right to create or change beneficiary designations.

CalPERS had no reason to assume the POA was not valid or did not reflect Decedent's intent. Additionally, Decedent had not yet requested to change her beneficiaries, so there was nothing that would have prompted CalPERS to inform respondent Lehn that she was not authorized to change Decedent's beneficiaries.

12. It was not until February 7, 2022, that CalPERS received Decedent's MOLOB Estimate Request Form. The following day, CalPERS sent Decedent the MOLOB estimate packet which included a "Modification of Original Election at Retirement Estimate" for the effective date of April 1, 2023. Respondent Lehn returned the MOLOB to CalPERS on March 14, 2022. Within three days, CalPERS notified respondent Lehn

the POA did not authorize her to change a beneficiary designation. Decedent submitted a valid MOLOB on March 28, 2022, with an effective date of April 1, 2023.

13. Contrary to respondents' arguments, the evidence demonstrates that CalPERS promptly responded to Decedent and respondent Lehn's requests. CalPERS repeatedly informed Decedent and respondent Lehn that any beneficiary change would be subject to the 12-month waiting period. There was nothing prohibiting Decedent from accessing her myCalPERS account and making any necessary beneficiary changes if she had the capacity to do so. However, Decedent did not authorize respondent Lehn to make those changes. As a result, CalPERS correctly ensured that any beneficiary change was executed by Decedent.

14. Respondents' reliance on the substantial compliance argument articulated in *Manderson-Saleh* is misplaced. As CalPERS correctly argued, *Manderson-Saleh* addresses a different statute with a different intent. The 12-month waiting period required under Government Code section 21462, subdivision (c), is intended to protect members who may not have capacity to make a beneficiary election when nearing death. Applying the doctrine of substantial compliance is inconsistent with the plain meaning of Government Code section 21462, subdivision (c).

15. Respondent also did not establish, by a preponderance of the evidence, that there is a correctable mistake under Government Code section 20160. "The mere recital of mistake, inadvertence, surprise or excusable neglect is not sufficient to warrant relief. Relief on grounds of mistake, inadvertence, surprise or excusable neglect is available only on a showing that the claimant's failure . . . was reasonable when tested by the objective 'reasonably prudent person' standard." (*Dept. of Water & Power v. Super. Ct.* (2000) 82 Cal.App.4th 1288, 1293.) "The only occasion for the application of section 473 is where a party is unexpectedly placed in a situation to his

injury without fault or negligence of his own and against which ordinary prudence could not have guarded." (*Elms v. Elms* (1946) 72 Cal.App.2d 508, 513.)

16. Here, respondent Lehn admitted on January 5, 2022, that she knew about the 12-month waiting period required under Government Code section 21462, subdivision (c). Decedent did not submit the first MOLOB Estimate Request Form, which did not contain her notarized signature, until February 7, 2022. Even using this date, respondents would not be entitled to the lifetime monthly benefit because Decedent died on February 3, 2023, less than 12 months after the first submission of the MOLOB Estimate Request Form.

Furthermore, Decedent did not give respondents the right to change her beneficiary designations, which is specifically stated on the POA. As Decedent's POA, respondent Lehn is charged with knowing the scope of her authority. It is not for CalPERS to bring this issue to her attention. Because respondent Lehn did not have the authority to sign the MOLOB, CalPERS was correct in accepting the March 28, 2022, MOLOB as the only valid beneficiary designation. There is no basis to make a different finding.

Because Decedent's MOLOB failed to comply with the 12-month waiting period set forth in Government Code section 21462, subdivision (c), Government Code 20160 cannot be used to give respondents a lifetime monthly retirement benefit they are not entitled to receive.

ORDER

CalPERS, in accordance with the PERL, correctly determined that respondents Lehn and Alford are not entitled to a lifetime monthly benefit from Decedent's retirement. Respondents' appeal is DENIED.

DATE: May 21, 2026

Marcie Larson

Marcie Larson (May 21, 2026 15:19:58 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings