STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Michael Britt (Respondent) established membership with CalPERS effective November 2, 1987, through his employment with the California Department of Housing and Community Development and retired effective September 14, 1999. Respondent is Medicare-eligible and has resided in Switzerland since 2018. By virtue of his prior employment, Respondent is eligible for CalPERS health benefits under the Public Employees' Medical and Hospital Care Act (PEMHCA) (Gov. Code, § 22750 *et seq.*) and its implementing regulations (Cal. Code Regs., tit. 2, § 599.500 *et seq.*). PEMHCA authorizes and requires CalPERS to provide health benefits for state employees and retirees (referred to as annuitants).

Starting January 1, 2014, Respondent was enrolled in the Platinum Supplement to the Original Medicare Plan (Medicare Supplement Plan) offered by CalPERS. Generally, Medicare-eligible annuitants must enroll in a Medicare health benefit plan, unless they are specifically excluded by federal law or regulation. In or around 2013/2014, CalPERS implemented an Employer Group Waiver Plan (EGWP), in part to provide continuing benefits to Medicare-eligible annuitants. EGWP is offered by the Centers for Medicare and Medicaid Services (CMS), a federal agency, to allow plan sponsors such as CalPERS to waive certain Medicare regulations. CalPERS' Medicare Supplement Plan was part of EGWP.

Upon implementation of EGWP, CMS rejected the enrollment of annuitants with foreign addresses into Medicare health benefit plans, including the Medicare Supplement Plan. This abruptly left those annuitants without health or prescription coverage. The affected population of annuitants was relatively small — less than 100 people.

To avoid disruption of those annuitants' essential health benefits during the EGWP implementation process, CalPERS directed Anthem Blue Cross, the administrator of the Medicare Supplement Plan, to place Medicare-eligible annuitants with foreign addresses in a "holding plan." A holding plan is generally designed as a temporary mechanism to ensure annuitants can maintain continued benefits, typically to address enrollment timing issues between CalPERS, the health plan administrator, and CMS.

CalPERS further directed Anthem Blue Cross to provide Platinum Basic Plan benefits to Medicare annuitants with foreign addresses, such as Respondent, who were placed in a holding plan. The Platinum Basic Plan is the most expensive health benefits plan offered by CalPERS. This plan was used for annuitants with foreign addresses because the Platinum Basic Plan is the only plan offered by CalPERS that has no geographical restrictions, providing full coverage to annuitants living abroad. This is possible because the Platinum Basic Plan is not subject to compliance with federal Medicare laws or regulations, as it is not a Medicare health benefit plan.

However, Medicare annuitants with foreign addresses who were placed in a holding plan continued to be charged the lower premiums for the Medicare Supplement Plan

while receiving superior Platinum Basic Plan coverage and benefits. Some annuitants were mistakenly kept in the holding plan through the end of 2024.

Respondent was one such annuitant. More specifically, he was added to the holding plan on January 24, 2019, after CalPERS updated its records to reflect his new address in Switzerland. Respondent's placement in the holding plan, as with all other annuitants placed in the holding plan, was necessary to provide continuing health benefits while issues with the implementation of EGWP were resolved. Also like all other annuitants in the holding plan, Respondent was charged the lower premiums associated with the Medicare Supplement Plan while receiving the superior benefits of the more expensive Platinum Basic Plan.

In 2024, CalPERS selected Blue Shield of California (Blue Shield) to be the new administrator of the Medicare Supplement Plan and the Platinum Basic Plan, effective January 1, 2025. Upon the administrator change, CalPERS directed Blue Shield to cease the practice of placing and keeping Medicare-eligible annuitants with foreign addresses in the holding plan. CalPERS did so because this practice exposed CalPERS to a high risk of liability for claims, i.e., annuitants in the holding plan received the Basic Plan's more generous coverage and benefits without paying premiums commensurate with the coverage and benefits received.

In January 2025, Respondent contacted CalPERS requesting proof that he had comprehensive health coverage, which he stated was required by the Swiss government. Blue Shield had refused to provide him with such proof because, as of January 1, 2025, he was enrolled in the Medicare Supplement Plan, which provided coverage outside the United States for only urgent and emergency services. Unbeknownst to Respondent, he was no longer in a holding plan providing him with Platinum Basic Plan coverage and benefits.

Thereafter, CalPERS explained to Respondent that his employer contribution would not cover the higher cost of the Platinum Basic Plan and that, if he wanted to remain on the Platinum Basic Plan going forward, he would be required to pay the difference in cost, which would be deducted from his retirement allowance. Respondent objected to having to contribute to the cost of the Platinum Basic Plan because he had never previously been required to do so since being placed in the holding plan in 2019.

On May 23, 2025, Respondent sent a letter to CalPERS requesting that he be re-enrolled in the Platinum Basic Plan effective January 1, 2025, and going forward, at no additional cost. CalPERS denied this request on June 18, 2025, and notified him of his appeal rights.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. The hearing was held on August 19, 2026, and August 25, 2026. Respondent represented himself.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support his case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet, was available

to answer Respondent's questions, and clarified how to obtain additional information on the process.

At the hearing, a Research Data Specialist with CalPERS' Clinical Policy & Programs Division testified regarding the provisions of the Evidence of Coverage for each of the Medicare Supplement Plan and the Platinum Basic Plan. An Assistant Division Chief with CalPERS' Health Account Management Division testified regarding the history of the holding plan.

Respondent testified on his own behalf that Switzerland requires all residents to have comprehensive health insurance and has strict penalties for being uninsured. He further testified that Swiss health insurance policies are expensive, and thus it has been important for Respondent to maintain comprehensive health coverage through CalPERS at all times since moving to Switzerland. Respondent testified he feels aggrieved that CalPERS' mistakes regarding the holding plan have caused him great difficulty in continuing to reside in Switzerland. He provided no testimony explaining how these complaints might entitle him to any form of relief.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent 's appeal. In the Proposed Decision, the ALJ concluded that CalPERS acted properly when it: (1) corrected its own error by removing Respondent from the holding plan effective January 1, 2025; (2) decided not to seek retroactive reimbursement of the higher Platinum Basic Plan insurance premiums from Respondent for 2019 to 2024; (3) provided Respondent with the opportunity to re-enroll in the Platinum Basic Plan retroactive to January 1, 2025; and, (4) required that Respondent pay the higher costs associated with the Platinum Basic Plan going forward, if he chose to re-enroll in it, as required by Government Code section 22830, subdivision (b) and Government Code section 22870.

Lastly, the ALJ found that Respondent received a substantial windfall due to CalPERS' mistake, in that he received superior Platinum Basic Plan coverage while paying lesser Medicare Supplement Plan premiums for approximately five years and was not entitled to any additional relief.

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

November 18, 2026

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