



Board of Administration

Agenda Item 9a9

September 15, 2021

Item Name: Proposed Decision – In the Matter of the Denial of Long-Term Care Benefit Eligibility of RICHARD B. CORY, Respondent

Program: Strategic Health Operations Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent Richard B. Cory's (Respondent Cory) 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 Cory purchased a comprehensive Long-Term Care (LTC) policy issued under the authority of the Public Employees' Long-Term Care Act (LTC Act). Mr. Cory submitted a request for reimbursement under the LTC policy of certain costs he incurred at Windchime of Chico, an assisted living facility, from October 11, 2019 through May 2, 2020. The California Public Employees' Long-Term Care Program (LTC Program) reviewed the facts, the applicable law and the applicable coverage provisions contained in the LTC policy's 1995 Comprehensive Plan Evidence of Coverage (EOC) booklet and determined that the costs incurred by Respondent Cory were not eligible for reimbursement because he did not qualify for benefits. Respondent Cory submitted an appeal regarding CalPERS' determination concerning eligibility for receiving benefits, and the matter was heard by the Office of Administrative Hearings on April 12, 2021 and May 7, 2021. A Proposed Decision was issued on July 14, 2021, affirming CalPERS' determination and denying the appeal.

Alternatives

A. 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 July 14, 2021,

concerning the appeal of Richard B. Cory; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. 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 July 14, 2021, concerning the appeal of Richard B. Cory, 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.

- C. 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 July 14, 2021, concerning the appeal of Richard B. Cory, 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.

- D. 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 Richard B. Cory, 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 Richard B. Cory.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Donald Moulds
Chief Health Director
Health Policy and Benefits Branch