



## Board of Administration

# Agenda Item 8b1

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**November 16, 2022**

**Item Name:** Petition for Reconsideration – In the Matter of the Appeal of Lifetime Monthly Benefit Payable Upon the Deaths of Kim M. Gardner and Hayley M. Gardner by ROBERT J. GARDNER, Respondent and RYAN E. GARDNER, Respondent

**Program:** Disability and Survivor Benefits Division

**Item Type:** Action

### **Parties' Positions**

Staff argues that the Board of Administration should deny the Petition for Reconsideration.

Respondent Robert J. Gardner (Respondent Robert) argues that the Board of Administration should grant the Petition for Reconsideration.

### **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**

The Board, at its September 21, 2022 meeting, adopted the Proposed Decision of the Administrative Law Judge to deny the Respondents' request to transfer the lifetime option allowance of decedent beneficiary Hayley Gardner to Ryan Gardner. A timely Petition for Reconsideration was submitted by Respondent Robert.

A Stay of Execution in the above matter has been granted so that the Petition for Reconsideration may be presented to the Board.

Respondent Robert has been notified of the date of the Board meeting and of his opportunity to submit written argument in advance of the Board meeting on November 16, 2022.

### **Alternatives**

A. For use if the Board decides to deny the Petition for Reconsideration:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System denies the Petition for Reconsideration submitted by Robert J. Gardner concerning

the Board's Decision of September 21, 2022; the Board's decision of September 21, 2022, is effective immediately and the Respondent has 30 days to appeal to the courts.

- B. For use if the Board decides to grant the Petition for Reconsideration and decide the matter upon the record. A transcript of the hearing would be provided to each Board member, and the Board would receive written and/or oral argument at a subsequent meeting and adopt a new decision upon reconsideration:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System grants the Petition for Reconsideration submitted by Robert J. Gardner concerning the Board's Decision dated September 21, 2022; RESOLVED FURTHER that the reconsideration shall be made at a subsequent Board meeting, after notice is given to all affected parties, 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.

- C. For use if the Board decides to grant the Petition for Reconsideration and assign the case to an Administrative Law Judge, subject to the procedures provided in Government Code section 11517. The matter would be remanded to the Office of Administrative Hearings for taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System grants the Petition for Reconsideration submitted by Robert J. Gardner and concerning the Board's Decision dated September 21, 2022; RESOLVED FURTHER that the reconsideration shall be scheduled for hearing with the Office of Administrative Hearings, after notice is given to all affected parties, where the Administrative Law Judge may base his or her findings upon the record produced before the Administrative Law Judge at prior hearing(s) and any additional evidence including written and oral argument presented by the parties as may be permitted.

**Budget and Fiscal Impacts:** Not applicable

### **Attachments**

Attachment A: Respondent's Petition for Reconsideration

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Attachment D: Decision

Attachment E: Proposed Decision

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Anthony Suine  
Deputy Executive Officer  
Customer Services and Support