

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

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Fax

To Matthew G. Jacobs
Company CAL PERS
Fax number 916-795-3972
Date 2/13/22
Job number _____

From Brian A. Dalhaver
Phone number [REDACTED]
Fax number _____
Total pages 4

Custom text area

~~February 13, 2022~~ February 13, 2022.

Cheree Swedersky, Assistant to the Board
Executive Office
California Public Employees' Retirement System
P.O. Box 942701
Sacramento, CA 94229-2701
Fax # 916-795-3972
Attn: Matthew G. Jacobs, General Counsel

**RE: In the Matter of Appeal of Reinstatement from Industrial Disability Retirement of Brian A. Dalhover
OAH No. 2021020497**

Dear CalPERS:


I am in receipt of the Board's decision on the above matter. As previously stated, I am still undergoing care through worker's compensation because of the injury sustained while employed by Metropolitan State Hospital. I am actively receiving psychiatric therapy after years of being denied this care. Further, I want to stress that from the date I was deemed substantially incapacitated to perform my normal duties as Psych. Tech., there has been no improvement in my health or treatment to correct the issues for which I am substantially incapacitated. If anything, I have additional diagnosis from the date I was placed on retirement disability. I am perplexed as to what has now prompted CalPERS to change their position without giving me my due process in treatment in care to assist me in recovering.

My rating was 53% disabled at the time I was put out on retirement disability. This was prior to having a cat scan done that revealed calcification in my right inguinal. I am in a lot of pain due to this condition, and nothing has been done to resolve this. Further, I am incontinent and must relieve myself constantly throughout the day (a few times per hour). This condition has not been treated nor resolved.

I feel that it is unethical, and morally irresponsible, to put patients under my care when I cannot even care for myself. I respectfully ask that CalPERS do their due diligence for myself and patients by not reinstating me as psychiatric technician. I beg that you provide me the medical care that I am owed and have been begging for years. If you look back at how long this organization has left me in limbo, denying medication/treatment, etc. and now forcefully wanting to reinstatement after only two years of deeming me incapacitated to sustainably perform my duties you will see how the approach has been beyond unjust. The system has failed me and left me out to rot for years. Throughout these years, without receiving benefits, I was at times homeless/living in my car. It was only in 2019 that you guys decided to give me benefits that were denied to me for years prior. Why? I would like to know why I was neglected the benefits owed to me as a state employee. I hereby request a written response as to WHY CalPERS left me without any income/benefits and treatment while I was out for injuries sustained from an assault while on duty.

Lastly, the denial letter is confusing, it says I have thirty days to file an appeal and on the second page it says that I have 25 days. Which is it? See enclosed denial letter.

Sincerely,



Brian A. Dalhover
Cell [REDACTED]



California Public Employees' Retirement System

Legal Office

P. O. Box 942707, Sacramento, CA 94229-2707 | Phone: (916) 795-3675 | Fax: (916) 795-3659

888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

January 19, 2022

Ref. No. 2020-1258

Via Certified Mail – Return Receipt Requested and First-Class Mail

Brian A. Dalhover

[REDACTED]
[REDACTED]

Subject: In the Matter of the Appeal of Reinstatement from Industrial Disability Retirement of BRIAN A. DALHOVER, Respondent, and CALIFORNIA DEPARTMENT OF STATE HOSPITALS - METROPOLITAN, Respondent. OAH No. 2021020497

Dear Mr. Dalhover:

We enclose a copy of the Board of Administration's Decision in the above matter. Please be advised that this Decision was made pursuant to the Administrative Procedure Act (Gov. Code, § 11370, et seq.) and California Code of Regulations, Title 2, sections 555-555.4, on January 18, 2022. This Decision becomes effective 30 days after the date of mailing, which appears on the attached Proof of Service.

Any party who participated in this case and is dissatisfied with this Decision has a right to petition the Board for reconsideration within 30 days of the date of mailing of the Decision, and the right of appeal to the courts within 30 days after the last day on which reconsideration can be ordered. (See Gov. Code, §§ 11521 and 11523.) However, once the effective date of the Decision has passed, the Board loses the authority to reconsider its Decision, and your Petition for Reconsideration will be rejected. (Gov. Code, § 11521). It is not necessary that a Petition for Reconsideration be filed in order to appeal to the courts. (Gov. Code, § 11523.) **If you choose to file a Petition for Writ of Mandate, please submit a written request to our office for preparation of the administrative record.**

The Chief Executive Officer may grant a stay of the effective date of the Decision, not to exceed 30 days, so that a Petition for Reconsideration may be considered by the Board at its next meeting. If additional time is needed by the Board to evaluate a Petition prior to the expiration of the stay, the Chief Executive Officer may grant an additional stay for no more than 10 days, solely for the purpose of considering the Petition. If no action is taken on a Petition within the time allowed for ordering reconsideration, the Petition shall be deemed denied. (Gov. Code, § 11521.)

All Petitions for Reconsideration MUST BE received by the CalPERS Executive Office within 25 days from the date the Decision was mailed in order for the Chief Executive Officer to grant a stay of execution. If no stay of execution is issued before the effective date of the Decision, and the effective date occurs before the next Board Meeting, the Board will lose its power to consider your Petition for Reconsideration. THEREFORE, ADHERING TO THESE TIMELINES IS CRITICAL IN ORDER TO PRESERVE YOUR RIGHTS.

Please title your submission "Petition for Reconsideration" and ensure that all personal information has been redacted, as this will become a public document when included in the agenda item: Please send this to:

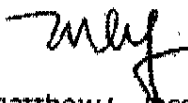
Cheree Swedensky, Assistant to the Board
Executive Office
California Public Employees' Retirement System
P. O. Box 942701
Sacramento, CA 94229-2701
Fax: (916) 795-3972

In addition, it is recommended that you send, via facsimile, a copy of any Petition for Reconsideration to the attention of Matthew G. Jacobs, General Counsel, at (916) 795-3659.

ONLY THE ABOVE METHODS OF DELIVERY SHOULD BE UTILIZED IN TRANSMITTING A PETITION FOR RECONSIDERATION. DO NOT DROP DOCUMENTS OFF AT ANY CALPERS REGIONAL OFFICE IN LIEU OF THE ABOVE INSTRUCTIONS, AS THERE IS NO GUARANTEE THAT THOSE DOCUMENTS WILL BE RECEIVED BY THE BOARD UNIT IN A TIMELY FASHION.

If you do not file a Petition for Reconsideration or if your Petition for Reconsideration is denied, the next step in the appeal process is to file a Petition for Writ of Mandate in Superior Court.

Sincerely,



Matthew G. Jacobs
General Counsel
Legal Office

MGI:kmp

Enclosure

cc: Personnel Officer, Department of State Hospitals - Metropolitan LA