



## Board of Administration

# Agenda Item 8a6

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**June 12, 2024**

**Item Name:** Proposed Decision – In the Matter of the Long-Term Care Benefit Eligibility Prior to March 28, 2022, of ANDY R. WILSON, JR., Respondent.

**Program:** Clinical Policy Program Division

**Item Type:** Action

### **Parties' Positions**

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Andy R. Wilson, Jr.'s (Respondent) 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 submitted a claim for reimbursement for services rendered under his 2006 Nursing Home & Assisted Living/Residential Care Facility Only Plan Evidence of Coverage. Respondent's claim was approved for services completed after March 28, 2022. CalPERS denied Respondent's claim for services prior to March 28, 2022, because he did not meet the requirements for reimbursement under his Plan. Respondent appealed CalPERS' determination. The matter was heard by the Office of Administrative Hearings on April 4, 2024. A Proposed Decision was issued on May 3, 2024, affirming CalPERS' determination and denying the appeal.

## Alternatives

- A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517, subdivision (c)(2)(C), which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the Proposed Decision, by correcting the spelling error of "phrased" to "phrases" on page 4, paragraph 7, and correcting the word "reach" to "reaching" on page 4, paragraph 7 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated May 3, 2024, as modified, concerning the appeal of Andy R. Wilson, Jr.; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. 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 May 3, 2024, concerning the appeal of Andy R. Wilson, Jr.; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- C. 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 May 3, 2024, concerning the appeal of Andy R. Wilson, Jr., 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.

- D. 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 May 3, 2024, concerning the appeal of Andy R. Wilson, Jr., 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.

- E. 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 Andy R. Wilson, Jr., 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 Andy R. Wilson, Jr.

**Budget and Fiscal Impacts:** Not applicable

### **Attachments**

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

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Health Policy and Benefits Branch