



Board of Administration Educational Day

Action Item – Proposed Decisions of Administrative Law Judges 2. Victor Wanek

January 13, 2025

Item Name: Proposed Decision – In the Matter of the Appeal Regarding Benefit Coverage for Skilled Care of VICTOR WANEK, Respondent.

Program: Clinical Policy and Programs Division

Item Type: Action

Parties' Positions

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

Respondent Victor Wanek'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 requested coverage for skilled nursing care provided to him after August 16, 2022. His request for coverage was denied. Respondent submitted an appeal, and the matter was heard by the Office of Administrative Hearings on September 16, 2024. A Proposed Decision was issued on October 16, 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 changing the year "2024" and replacing it with the year "2022" in paragraph 19, on page 15 of the Proposed Decision, and hereby adopts as its own Decision the Proposed Decision dated October 16, 2024, as modified, concerning

the appeal of Victor Wanek; 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 October 16, 2024, concerning the appeal of Victor Wanek; 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 October 16, 2024, concerning the appeal of Victor Wanek, 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 October 16, 2024, concerning the appeal of Victor Wanek, 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 Victor Wanek, 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 Victor Wanek.

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