

**ATTACHMENT B**

**STAFF'S ARGUMENT**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION**

Sylvia M. Carr-Hall (Respondent) submitted a claim for reimbursement to the Long-Term Care Group, Inc. (LTCG) under her long-term care policy (Policy). The Policy was issued under the authority of the Public Employees' Long-Term Care Act (PELTCA). Respondent obtained coverage under the Evidence of Coverage of the Comprehensive Plan, effective 1995 (EOC).

Under the PELTCA, CalPERS' Board of Administration has the jurisdiction and authority to administer the California Public Employees' Long Term Care Program (LTC Program). The LTC Program is a self-funded program designed to cover costs associated with qualified long-term care services and is administered by LTCG.

On July 28, 2022, Respondent moved into WellQuest Granite Bay (WellQuest) an assisted living facility in Granite Bay, California. On September 10, 2022, Respondent submitted a claim form to LTCG to be reimbursed for the costs associated with her room and services at WellQuest.

On November 1, 2022, LTCG sent a letter to Respondent denying long-term care benefit eligibility. LTCG had determined that Respondent did not meet the conditions for receiving benefits as outlined in the EOC, because she did not have a deficiency in two or more activities of daily living, did not have a cognitive impairment, nor a complex yet stable medical condition. LTCG's determination was based on a review of the Claimant Care Needs Assessment form completed by the Health and Wellness Director of WellQuest of Granite Bay, and a Plan of Care from WellQuest Granite Bay.

Respondent submitted a Notice of Claim Reconsideration form dated November 30, 2022, requesting LTCG reconsider its denial. After receiving Respondent's Notice, LTCG considered additional information and documentation including a Physician's Report by Dr. B. Gill and Sutter Health progress notes. LTCG sent Respondent a letter dated December 12, 2022, upholding the denial of her request for reimbursement. On February 1, 2023, Respondent filed a Notice of Claim appeal to CalPERS. On May 10, 2023, CalPERS upheld LTCG's denial.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on September 19, 2024. Respondent was not present at the hearing but was represented by her son, Collin Carr-Hall, who has power of attorney to act on Respondent's behalf.

Prior to the hearing, CalPERS explained the hearing process to the Respondent's representative and the need to support her case with witnesses and documents. CalPERS provided Respondent's representative with a copy of the administrative hearing process pamphlet and clarified how to obtain further information on the process.

At the hearing, CalPERS presented evidence in support of its determination through witness testimony and documents. An LTCG representative testified that the documents demonstrated Respondent was not deficient in two or more activities of daily living because she received cues or prompting to initiate or complete bathing and dressing, and she is independent in toileting, transferring, incontinence, eating, and medication administration. CalPERS determined that Respondent did not require substantial physical assistance and/or constant supervision in one or more of the activities of daily living, as the EOC requires.

CalPERS also presented evidence to show that Respondent did not have a cognitive impairment. Her mini-mental state examination indicated that she had normal cognition based on her 26 out of 30 score. The physician's report indicates mild cognitive impairments. She does not require assistance with medication management, and she is receiving no services for memory care. The LTCG representative further explained that a finding of cognitive impairment sufficient to warrant coverage under the EOC requires, at minimum, assistance with medication administration.

Respondent's son testified that Respondent's cognitive decline had progressed significantly since her admission into WellQuest. He indicated that she is confused, disoriented, and displays sundowning behavior. He also explained that he reminds her to take her medication.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ granted Respondent's appeal. The ALJ found that the evidence at the hearing established that Respondent had a cognitive impairment as defined by the EOC given that Respondent's physician's report established that she suffers from confusion and disorientation because of her cognitive decline. The EOC defines "Cognitive impairment" as "confusion or disorientation resulting from a deterioration or loss of intellectual capacity that is not related to, or a result of, mental illness, but which can result from Alzheimer's disease, or similar forms of senility or irreversible dementia." The ALJ found that Respondent's case fits squarely within the definition of cognitive impairment, so she qualifies for LTC benefits.

In the Proposed Decision, the ALJ concludes that CalPERS incorrectly denied Respondent's claim. Therefore, Respondent is eligible to be reimbursed for services provided to her at WellQuest Granite Bay.

Although CalPERS does not agree with the reasoning of the ALJ, based on all the facts and circumstances of this case, staff does not oppose adoption of the Proposed Decision.

January 13, 2025

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