

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Sandra Y. DeGolyer (Respondent) was the beneficiary of a Long-Term Care (LTC) insurance policy administered for CalPERS by a third-party administrator, Illumifin, formerly referred to as Long Term Care Group, Inc. (LTCG). Respondent is a participant of the CalPERS 2000 Nursing Home & Assisted Living/Residential Care Facility Only Plan (Facilities Plan). The scope of her benefits is set forth in the Facilities Evidence of Coverage (EOC), which outlines specific policy requirements that must be met before participants are eligible to receive LTC benefits under the Facilities Plan.

Under the LTC Act, 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.

The LTC Program offered two enrollment options: the Comprehensive Plan and the Facilities Plan. The Comprehensive Plan covered expenses for services received in home or at a facility. The Facilities Plan only covered expenses for services received in nursing homes or residential care facilities, but not in the home. The monthly premium for the Comprehensive Plan was approximately double that of the Facilities Plan.

Due to her declining health condition, Respondent became eligible for LTC benefits pursuant to the Facilities Plan on January 1, 2021. Illumifin notified Respondent that she was approved for benefit eligibility from December 22, 2020 through February 14, 2021, based on her daily needs, such as bathing, dressing, toileting, continence, and transferring, and no indication that she utilized an approved formal caregiver.

On December 23, 2021, Illumifin received a letter from John DeGolyer (Respondent's son/representative), requesting reimbursement under Respondent's Facilities Plan for home health care services. On February 3, 2022, Illumifin denied the request for reimbursement because Respondent's care was provided in her home, and the Facilities EOC did not cover home care. Illumifin explained that the Facilities EOC only covers care that is provided at a Residential Care Facility or Skilled Nursing Facility. On March 25, 2022, Illumifin denied Respondent's son's request for reconsideration.

Respondent's son appealed the denial. Illumifin again reviewed the facts, applicable law, and coverage provisions contained in the Facilities EOC and determined that Illumifin appropriately denied reimbursement for home health care services incurred by Respondent in accordance with the terms and conditions of the Facilities Plan EOC.

Respondent's son appealed the denial to CalPERS. On September 15, 2022, CalPERS upheld Illumifin's denial. On November 10, 2022, Respondent appealed CalPERS' determination that Respondent was not eligible to be reimbursed for home care services and exercised the right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH).

Respondent died on April 29, 2023, while the appeal was pending. A hearing regarding her appeal was held on March 21 and November 19, 2024. Respondent's son represented Respondent's estate at the hearing.

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

Respondent's son testified at the hearing. He claimed that a facility was unavailable at the time in question due to Covid-19 and placing Respondent in a facility during Covid-19 was a danger to her health.

At the hearing, two Illumifin representatives presented evidence in support of its determination. The witnesses testified that the Facilities EOC only covers care provided by a Residential Care Facility or Skilled Nursing Facility, but does not include home care and therefore cannot be used to reimburse home care services. The Illumifin representatives also testified that there are no exceptions available to provide Respondent a benefit that is otherwise not available under the Facilities Plan. The representatives also testified that if Illumifin were to provide benefits for home care, Illumifin would reimburse Medicaid, not Respondent or her son. Illumifin also submitted records showing that a facility bed was available during the relevant time period.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent's Facilities Plan did not cover home care services because it was limited to expenses incurred while residing in a Residential Care Facility or a Nursing Home. The ALJ explained that "[a]llowing reimbursement for home care services under the [Alternative Care Payment Provision] ACPP would provide Respondent with a benefit she did not contract for. The Facilities Plan was half the cost of the Comprehensive Plan, which provided a greater scope of coverage. If the Respondent sought coverage for home care services, she should have selected a Comprehensive Plan." In the Proposed Decision, the ALJ concluded that "evidence established that [Illumifin] correctly applied the terms and conditions of the EOC in determining the home care services received by Respondent were not reimbursable."

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

February 19, 2025

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