

ATTACHMENT C

RESPONDENT'S ARGUMENT

To: California Public Employee's Retirement System (CalPERS) Board of Administration (Board)
400 Q Street., Sacramento, CA 95811

RECEIVED
OCT-22-2024
By: Board Services

Re: Respondent's Argument - Ref. No. 2024-0049 Appeal Health Benefits Eligibility of Kai M On

I disagree the, dated 10-03-2024, Proposed Decision of the Administrative Law Judge (ALJ) from Office of Administrative Hearing (OAH). CalPERS Board should consider that I didn't receive CalPERS health benefits due to the irresponsible CalPERS staffs and non professional services from CalPERS staffs. I should entitle 100% CalPERS health benefits even I only have 15-year CA State service credits.

If I couldn't get CalPERS health benefits, CalPERS should reverse my retirement in June 2021 and should responsible to offer me a position to reinstate as CA State employee that I can officially reapply for CA State employee health benefits. Then CalPERS should allow me to resubmit the retirement application after I have re-entitled CA State employee health benefits. I have mandatory reinstate right ruled by SPB (page 3).

I should entitle 100% CalPERS health benefits because I could have reinstated CA State employment in 2021 if CalPERS staffs could be more responsible and professional on my retirement application and my inquiries. I have lost 3-year health benefits and CalPERS owes me 3-year health insurance premium.

The irresponsible CalPERS staffs and non professional services from CalPERS staffs were the main factors that caused me lost my CalPERS health benefits. I have more than 15-year state service credits and I filed retirement on March 2021 which was 90 days before my 55-year-old birthday. I attached my DMV medical termination letter (page 2) with my retirement application, I definitely need retirement health insurance. However, CalPERS didn't inform me I would not get my health insurance before my retirement day. If I knew I would not get my CA State retirement health benefits, I would have reinstate to DMV or other CA State Agencies before my retirement and get my health insurance again before I retired.

Also the CalPERS retirement application form doesn't ask if the applicant needs health benefits or not. CalPERS should not expect applicant would know all CalPERS rules and would read all the rules from CalPERS. CalPERS staffs had enough time to contact me before my retirement date to inform me I didn't entitle CalPERS health benefits and provide advise but they didn't. The monthly retirement payment and health insurance are both important for a retiree. The quality of the CalPERS staffs were unacceptable.

I contacted CalPERS on 09-07-2021 about the issues of my health insurance and my CA State service credits calculation. However, CalPERS investigator Ms. Kristi Griffiths ([REDACTED]) has never provided me any information even though I ^{entitled} emailed her the documents that I ^{entitled} health insurance after I was medical terminated from DMV (page 5 and 6). She even stopped responding to my emails after I requested her to meet at State Controller's Office (SCO) for reconciliation (see page 4).

I also requested to meet with CalPERS CEO or management in 1-5-2022 (see page 4) but CalPERS Mr. Christopher Alexander had never responded. CalPERS staffs' non-respond was irresponsible. I lost another two chances to reinstate to CA State employment if I found out why I didn't entitle health benefits.

Please regard!

Kai M ON Kai On

[REDACTED]

RECEIVED
OCT 23 2014

CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF MOTOR VEHICLES
HUMAN RESOURCES BRANCH
P.O. BOX 932315 MAIL STATION A208
SACRAMENTO, CA 94232-3150



For CALPERS Retirement APP

March 11, 2014

FIRST AMENDED MD13007

Kai M. On

State Personnel Board Case No. 13-1190

DMV case No. AA-13-062

Dear Mr. On:

You are hereby notified that the Notice of Medical Termination dated September 5, 2013, is amended as follows:

Pursuant to Government Code Section 19253.5(d), you are hereby notified that you are medically terminated from your position as a Staff Administrative Analyst - Accounting Systems with the Department of Motor Vehicles (DMV). This termination shall be effective close of business on April 4, 2014.

The Department has considered the conclusion of the medical examination conducted by Robert E. Schneider, Ph.D. and other pertinent information and has determined you are unable to safely and efficiently perform the essential job duties of your current classification or any other classification in the Department. The medical termination is based upon the following facts:

A. On or about November 6, 2012, Dr. Schneider conducted a fitness for duty medical evaluation on you as requested by the DMV. The Department requested the evaluation due to management's concern about your ability to perform the full range of your duties as a Staff Administrative Analyst - Accounting Systems. You were observed meditating or sleeping during your work shift at your desk repeatedly, rocking back and forth at your desk while facing the wall, and withdrawing yourself from your staff, coworkers, and management when interaction was necessary. Specific instances of your failure to complete assignments and interact with staff are listed below:

1. On or about February 7, 2012, you failed to respond to an email that was forwarded to you from Financial Services Branch Chief Jeff Mansur. As a result of your failure to respond, your manager, Filomena Domondon, had to respond to the email when she returned from vacation on or about February 27, 2012.
2. On or about March 23, 2012, you failed to respond to an email that was sent to you by Manager Domondon, requesting that you complete the Quarterly Health and Safety Report for the Financial Systems Section. The report

California Relay Telephone Service for the deaf or hearing impaired from TDD Phones: 1-800-735-2929; from Voice Phones: 1-800-735-2922

ADM 1401 (REV. 7/2013) DMVWeb

A Public Service Agency

Kai On
P 20 f 6

Appellant did not challenge Dr. Schneider's findings, or any other evidence Respondent presented during the hearing. Instead, the only challenge that Appellant made to Respondent's decision to terminate his employment for medical reasons was to assert that there should be notes in his Official Personnel File demonstrating that unnamed DMV employees had been causing problems for him since 2005, in that they were disturbing him, following him, and humiliating him, but that Respondent refused to acknowledge Appellant's concerns in that regard.

Given Dr. Schneider's undisputed findings that Appellant was unable to perform the duties of any position at the DMV, and given CalPERS' decision to cancel the disability retirement application that Respondent had filed on Appellant's behalf due to Appellant's failure to cooperate in that process, it is determined that Respondent acted appropriately in medically terminating Appellant from the classification of Staff Administrative Analyst – Accounting Systems.

CONCLUSIONS OF LAW

1. Appellant's medical termination from the classification of Staff Administrative Analyst – Accounting Systems is appropriate under the circumstances; and
2. In accordance with the provisions of Government Code section 19253.5, subdivision (h), Appellant shall have mandatory reinstatement rights to his former position once it is determined that Appellant's medical condition has sufficiently improved such that he is able to safely and effectively perform his job duties.

ORDER

The Department of Motor Vehicle's medical termination of Kai On is **SUSTAINED.**

DATED: June 26, 2014



Bruce A. Monfross
Administrative Law Judge II
State Personnel Board

Kai On
2014
P 3 of 6



Reply Delete Archive Move to Categorize



Folders

- Inbox 26
- Junk Email
- Drafts
- Sent Items
- Deleted Items
- Archive
- Notes
- Conversation History
- Queue
- Trash

Upgrade to Microsoft 365 with premium

Re: Fraudulent Case

K O
 To: Griffiths, Kristi; K O
 Kristi,

You haven't told me what we are going to do in CalPERS HQ. As I mention, I only need the information of the investigation about if CalPERS has my 2015 payroll record since SCO sent me the form 1095-C. If you already contacted SCO and found out what had happened, you can provide me the information. May be SCO HQ should be the place we meet.

Thanks
 Kai On

From: Griffiths, Kristi
 Sent: Thursday, December 16, 2021 11:37 AM
 To: K O
 Subject: RE: Fraudulent Case

Hi Kai On,

Folders

- Inbox 16
- Junk Email
- Drafts
- Sent Items
- Deleted Items
- Archive
- Notes
- Conversation...

Fw: Fraudulent Case

K O
 Wed 12/8/2021, 10:25 AM
 To: You; infosec_incidents@calpers.ca.gov
 To: Christopher Alexander

Please forward all my old messages to your CEO, her deputies, and the official that in charge the legal office. There are some obstruction of justice activities inside CalPERS. The people behind this try to cover up my two health incidents in 2001 and 2006, and some wrong doing inside DMV.

Please cc me so I will have their email addresses.

Thanks
 Kai On

Kai On
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Employer-Provided Health Insurance Offer and Coverage
▶ Do not attach to your tax return. Keep for your records.
▶ Information about Form 1095-C and its separate instructions is at www.irs.gov/form1095c

VOID
 CORRECTED

Part I Employee		Applicable Large Employer Member (Employer)										
1 Name of employee K M ON		2 Social security number (SSN) [REDACTED]		7 Name of employer STATE OF CALIFORNIA				8 Employer identification number (EIN) [REDACTED]				
3 Street address (including apartment no.)				9 Street address (including room or suite no.) P. O. BOX 942850				10 Contact telephone number (916)322-3899				
4 City or town CA		5 State or province	6 Country and ZIP or foreign postal code		11 City or town SACRAMENTO			12 State or province CA	13 Country and ZIP or foreign postal code 94250			

Part II Employee Offer of Coverage		Plan Start Month (Enter 2-digit number):											
14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	1E												
	15 Employee Required Contribution (see instructions)	\$ 52.76	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
18 Section 480H Safe Harbor and Other Relief (enter code, if applicable)	2C												

Part III Covered Individuals
If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee

(a) Name of covered individual(s)	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of Coverage												
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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31			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Kari On
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BETTY T. YEE
California State Controller

K H ON

CA

***Note: The State Controller's Office has issued this revised 1095-C due to an error in Part II of the original 1095-C issued to you. The revised 1095-C captures updates made to your health benefit status for the 2015 reporting year. Please discard the original and keep this copy for your records.**

Under the Affordable Care Act (ACA), the State of California is required to furnish a statement to employees with information regarding the health coverage that was offered, if any, to the employee and their dependents, using IRS Form 1095-C. Any employee who was appointed to a time-base of 3/4 or more for at least one month during 2015, and those who were appointed to an intermittent time base and averaged 130 or more hours of service during a 6-month measurement period in 2015, have been issued a 1095-C.

The state's health coverage providers are also required to file reports with the IRS and furnish a statement to individuals containing information about those who were enrolled in (including dependents) state-sponsored health coverage for at least one day during the preceding calendar year, using IRS Form 1095-B.

You are receiving a 1095-C statement because you were considered full-time for one or more months during 2015. The enclosed 1095-C is for informational purposes only and should be kept on file with your tax records. The section labeled, "Part III-Covered Individuals" is intentionally left blank. Please do not fill in your dependent information or return this form to the State Controller's Office.

A list of Frequently Asked Questions (FAQs) regarding the ACA are available on CalHR's website at www.calhr.ca.gov (click on the "State Employees" link). You may also contact your department's Human Resources Office with questions regarding Form 1095-C or if any information is reported incorrectly. For questions regarding Form 1095-B or to make corrections, please contact your health coverage provider.

Personnel/Payroll Services Division, 300 Capitol Mall, Suite 4001, Sacramento, CA 95814, PO Box 942850, Sacramento, CA 94250

sco.ca.gov

Kari On
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PROOF OF SERVICE

California Public Employee's Retirement System (CalPERS)
400 Q Street, Sacramento, CA 95811

On October 16, 2024, I caused the following documents(s) to be served:

Respondent's Argument Ref. No 202400049

By USPS First Class mail to:

Board Services Unit Coordinator
California Public Employee's Retirement System
Post Office Box 942701
Sacramento, CA 94229-2701

By hand-delivered to:

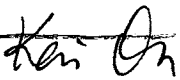
400 Q Street, Sacramento, CA 95811 lobby drop box.

By email to :

CalPERS Board of Administration (CalPERS_Board_of_Administration@calpers.ca.gov,
Board@CalPERS.ca.gov).

I declare under penalty of perjury that foregoing is true and correct, and that this declaration was executed on October 16, 2024, at Sacramento, California.

Signed:



Kai On

**PLEASE ENCLOSE COUPON WITH YOUR CHECK.
REMEMBER TO WRITE YOUR ACCOUNT NUMBER ON THE CHECK.
DO NOT REMIT CASH.
ADDRESS MUST APPEAR THROUGH WINDOW.**