



YOUR BEST PROTECTION

## EMPLOYEE BENEFITS PROGRAM COMMITTEE MEETING

### AGENDA

[LINK TO ZOOM MEETING](#)

MEETING #: **810 8947 3944**

PASSCODE: **569656**

ZOOM CALL IN #: **(669) 900-6833**

**Tuesday, November 17, 2020 1:00 p.m.**

This meeting shall consist of a simultaneous Zoom teleconference call at the ACWA JPIA, 2100 Professional Drive, Roseville, CA 95661 and remote sites.

### **WELCOME**

### **CALL TO ORDER AND ANNOUNCEMENT OF QUORUM**

**ANNOUNCEMENT RECORDING OF MEETING** This meeting may be recorded to assist in preparation of minutes. Recordings will only be kept 30 days following the meeting, as mandated by the California Brown Act.

**PUBLIC COMMENT** Members of the public will be allowed to address the Employee Benefits Program Committee on any agenda item prior to the Committee's decision on the item. They will also be allowed to comment on any issues that they wish which may or may not be on the agenda. If anyone present wishes to be heard, please let the Chairman know.

### **INTRODUCTIONS**

Presenter

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Sells           \*    **I.**   Review and possibly take action on San Luis-Delta Mendota.           **1**

Rupp           **II.**   Discuss next meeting date: April 15, 2021 at 10:00 a.m.

### **ADJOURN**

\*Related items enclosed.

**Americans with Disabilities Act** – *The JPIA conforms to the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. A request for disability-related modification or accommodation, in order to participate in a public meeting of the JPIA, shall be made to: Bobbette Wells, Executive Assistant to the CEO, ACWA JPIA, PO Box 619082, Roseville, CA 95661-9082; telephone (916) 786-5742. The JPIA's normal business hours are Monday – Friday, 7:30 a.m. to 4:30 p.m. (Government Code Section 54954.2, subdivision. (a)(1).)*

*Written materials relating to an item on this Agenda that are distributed to the JPIA's Employee Benefits Program Committee within 72 hours before it is to consider the item at its regularly scheduled meeting will be made available for public inspection at ACWA JPIA, 2100 Professional Drive, Roseville, CA 95661-3700; telephone (916) 786-5742. The JPIA's normal business hours are Monday – Friday, 7:30 a.m. to 4:30 p.m.*

**ACWA JPIA**  
**San Luis & Delta Mendota Water Authority**  
**November 17, 2020**

**BACKGROUND**

In June 2020, a San Luis & Delta-Mendota Water Authority employee requested to enroll her adult brother, for whom she has conservatorship. The JPIA denied the request, based on a determination that the individual did not meet the criteria for dependent eligibility provided by JPIA medical plans.

Eligible children include natural, step, or adopted children, and children for whom the employee or spouse has legal guardianship. Overage disabled dependents may be eligible for enrollment if they met the criteria for enrollment as a child before becoming ineligible due to age.

**CURRENT SITUATION**

Attached is a memorandum from San Luis & Delta Mendota Water Authority requesting that the JPIA reexamine the criteria for dependent eligibility. The employee has conservatorship and claims her brother as a tax dependent. As conservator, she is also responsible for securing healthcare for her brother.

Before becoming an employee at San Luis & Delta-Mendota Water Authority, she was able to obtain Kaiser health insurance for her brother through her prior employer (through CalPERS).

Eligibility requirements vary from plan to plan. Plan eligibility requirements are not superseded by court orders that an individual provide coverage. To enroll this individual, the JPIA plans would need to be amended to extend eligibility to individuals for whom employees or spouses have conservatorship.

**RECOMMENDATION**

That the Employee Benefits Program Committee give direction to staff on this item and/or vote to recommend a change in policy to the Executive Committee.



## MEMORANDUM

TO: ACWA JPIA

FROM: San Luis & Delta-Mendota Water Authority

DATE: October 20, 2020

RE: Request for the ACWA JPIA to Consider an Expansion of its Definition of Disabled Dependent

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### BACKGROUND

In June 2020, the ACWA JPIA denied a request to extend health insurance coverage to the adult brother of a San Luis & Delta-Mendota Water Authority (“Water Authority”) employee, explaining that because the brother is not a dependent child, and was not under the employee’s guardianship when he turned 18, the brother is not covered under the relevant Kaiser Evidence of Coverage for the ACWA JPIA. Kaiser did not make an independent determination regarding coverage, but instead deferred to the ACWA JPIA for its assessment.

This memorandum provides support for the Water Authority employee’s request that the ACWA JPIA consider expanding its definition of disabled dependent to allow coverage of an employee’s adult dependent where the adult dependent is not the employee’s child, but an LPS Conservatee.

### ISSUE

Should the definition of disabled dependent be expanded to allow coverage of an employee’s adult dependent where the adult dependent is an LPS Conservatee of the employee and/or the employee claims the disabled dependent on their California and Federal tax return as a legal dependent with the disabled person being fully dependent upon the employee.

### ANALYSIS

#### 1. Kaiser Evidence of Coverage for ACWA JPIA

The Kaiser Evidence of Coverage (“EOC”) defines a dependent of an eligible employee as the employee’s spouse or one of the employee’s dependent children. “Dependent children” only includes sons, daughters, stepchildren, adopted children, children placed with the employee for adoption, and children for whom the employee or the employee’s spouse “is the court-appointed guardian (or was when the child reached age 18).” Dependent children remain eligible for

coverage until they attain age 26, and can only continue past that time if they meet all of the requirements to be a dependent except the age limit.

The EOC's discussion of "Disabled Dependent certification" allows continuation after age 26 if the Subscriber provides annual documentation of incapacity and dependency. It does not allow for non-child disabled dependent coverage.

## **2. Information regarding LPS Conservatorships Generally**

A Lanterman-Petris-Short (LPS) Conservatorship is a conservatorship for persons gravely disabled as the result of a mental disorder or chronic alcoholism. An LPS Conservator is appointed by a County Court; the LPS Conservatee is the recipient of the conservatorship. It is unclear how many LPS Conservatorships there are in the State of California, but they are almost certainly less common than typical conservatorships, which pertain to elderly people.

The Conservator / Conservatee relationship is similar to a guardian / dependent relationship. The only difference between guardian and conservator is that you can only be guardian over a minor, and once they are an adult you become their conservator.

In the court order appointing an LPS Conservator, the LPS Conservator is given power to require the LPS Conservatee to receive treatment related specifically to their medical treatment and are in charge of health care, food, clothes, personal care, housekeeping, transportation, and recreation on behalf of the conservatee. LPS Conservators are legally responsible to provide care for the LPS Conservatee's daily needs (per [Californiacourts.ca.gov](http://Californiacourts.ca.gov)). LPS Conservators are permitted to claim the LPS Conservatee as a dependent on their taxes.<sup>1</sup>

For health care, there are three primary options for an LPS Conservator to provide health insurance to their LPS Conservatee, which include (1) employer coverage, (2) Medi-Cal, and (3) Private Insurance.

## **3. Information regarding the Water Authority Employee's Circumstances Specifically**

The Water Authority currently has an employee that is the LPS Conservator for her adult brother, who is diagnosed with schizophrenia. The Superior Court of California for the County of Tuolumne appointed the employee LPS Conservator of her adult brother when he was 31 years old.

The employee claims her brother as a legal dependent on her taxes, and is responsible for providing his health care. Before becoming a Water Authority employee, she was able to obtain Kaiser health insurance through her prior employer (through CalPERS).

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<sup>1</sup> See IRS Publication 5307, available at <https://www.irs.gov/pub/irs-pdf/p5307.pdf>, IRS Publication 501, available at <https://www.irs.gov/pub/irs-pdf/p501.pdf>.

Prior to her brother receiving health care through Kaiser, the employee reports that her brother received health care under Medi-Cal, which she describes as inadequate for his mental health disorder. The employee reports that private care for her brother would be over \$600 per month, which she cannot afford.

#### **4. Policy Support for Expanding the Definition of Disabled Dependent as Requested**

In the employee's own words, expanding the definition of disabled dependent to include LPS Conservatees is good policy because individuals in her uncommon situation "have to step up for a loved one who is 'mentally and gravely disabled' [and] are required to provide all of their care for them and responsible for ensuring they get the best medical care possible." Allowing individuals to add their disabled adult dependents, even if the disabled adult dependent was not in their care at the age of 18, onto their health coverage would allow them to provide a higher level of health care to the disabled adult dependent than would be available through Medi-Cal.

It appears that the increase in the number of insureds for the ACWA JPIA may be small, and this coverage would be consistent with the coverage offered by other public agencies, including those with Kaiser under CalPERS.