# CALPERS LONG TERM CARE INSURANCE LAWSUIT UPDATE

***Note:*** *This report covers update activity over the past five months, so some dates noted may have already passed.*

In June, Dave Muir, Mike Sloan, and several others from CRCEA, who have actively been monitoring the court proceedings, joined the lead counsel in this lawsuit, Michael Bidart, in a 90-minute teleconference to discuss several pending issues.

One of the newest, and most concerning issues, was that CalPERS recently disclosed at one of their recent board meetings that they were considering imposing new "significant premium increases" for the Long-Term Care Insurance program. Their reasoning was they needed this increase to offset the recent dismal returns of their fixed income investments.

Bidart proposed that we challenge the decision in court to block CalPERS' from any future premium increases while this case is being litigated. The issue was discussed with the judge handling our case, but since CalPERS has not implemented any premium increase, and we do not know any of the details of any future premium increase, there was not much the court could do. The court cannot take any action regarding something that has not happened.

On the brighter side, the judge assigned to our lawsuit, the Hon. William F. Highberger, appointed a "Special Settlement Master" to oversee all settlement negotiations. These negotiations have been ongoing since the first of the year, however, the COVID-19 pandemic has made any negotiations extremely difficult.

Also, our attorneys had asked to amend the original complaint to specifically name the State of California as a party in the suit. Of course, the State is opposing this motion, and contends that the State is not liable for any damages suffered by class members. Judge Highberger is of the opinion that the State of California is ultimately responsible for any judgment since CalPERS is a State Agency.

Following the Court's (partial) reopening, on July 27, 2020, the Hon. William F. Highberger granted our amendment of the complaint to list the State of California as a party to this suit.

This decision is probably one of the most important victories by our attorney.

Without declaring that the State is responsible for any claims emerging from a victory in this suit, CalPERS Long Term Care Insurance could have filed for bankruptcy. That would have ended any likelihood of the class members receiving any redress from the suit. It could also have ended the CalPERS insurance program, and we would have lost any coverage we now have as well.

While this suit has benefited from Judge Highberger's numerous judgments against CalPERS to date, the case will be argued in front of a jury, and juries can be a fickle lot.

On September 12, 2020, David Muir and Mike Sloan again had a conference call with Michael Bidart. This call was to advise of proceeding scheduled for September 15th in the Superior Court of Los Angeles County regarding recommendations the plaintiffs (us) would be presenting to the court.

Finally, the Court set March 29, 2021 as the date for the jury trial. In the trial, the jury will be asked to determine whether CalPERS breached the LTC insurance contract. The jury must also determine if the breach was caused by raising rates "as a result" of policyholders who purchased inflation protection benefits and, if so, the amount of damages to be awarded to the class.

If you would like to keep up with the proceedings on a regular basis, and stay informed of the most recent updates, here is the website address that will allow you to do that: [https://www.calpersclassactionlawsuit.com/litigation-update.html.](https://www.calpersclassactionlawsuit.com/litigation-update.html) Or you can go to [www.crcea.org](http://www.crcea.org) for the latest updated from this adhoc committee.

This had been the planned end to this article, however, on the day it was going to be sent to print, the Sacramento Bee came out with an article titled, "Benefit Reductions, Price Hikes Coming for CalPERS Long Term Care Insurance Plans".

Below are excerpts from that newspaper article:

CalPERS hasn't publicly estimated how much it might raise premiums on its long-term care insurance policies next year, but the anticipated rate hikes are prompting the system to consider a wide range of changes including benefit reductions.

The board plans consider specific changes in November, when it will likely weigh premium increases that would go into effect in July 2021. The system suspended enrollment in the plans in June and warned of "significant premium increases" to come.

One possibility is giving policyholders options to reduce their benefits instead of paying higher premiums, chief health director Don Moulds told the board.

Right now, the policies start covering costs of long-term care after a policyholder has been paying the costs themselves for 90 days. The system could increase that delay to 180 days to help keep premiums down, Moulds said.

Other possibilities for benefit reductions include adding deductibles, reducing the policies' duration and reducing daily benefit amounts, he said.

At the end of June 2018, the fund estimated it had 101% of the assets it estimated it would need to cover future costs. If the board accepts the projections of its actuaries based on a sicker population, worsening financial outlook and changes in enrollment, that percentage would drop to 69% for the end of June 2019, according to the meeting materials.

New changes in this developing situation will be updated on the CRCEA website under "Resources" and then click on "CalPERS Litigation".

Additional questions can be referred to info@CRCEA.org, and your email will be forwarded to the person best able to assist you with your question.