

**OPINION  
72-325**

March 29, 1972 (OPINION)

Mr. Tor A. Hegland  
Executive Director  
North Dakota Public Employees  
Retirement System

RE: State - Group Health Insurance - Contributions

This is in response to your letter in which you ask for an Attorney General's Opinion on the following question:

Where a husband wife are both 'eligible employees' under N.D.C.C. section 54-52.1-01(1) and one has directly requested enrollment with his employing department and has elected to include his spouse within the optional family coverage under the Uniform Group Insurance Program, does the statute provide that the state shall contribute \$7.50 monthly towards the uniform group insurance cost of each of the two employees, that is a total of \$15.00?"

The answer to the question must be found in the statutory provisions of the Uniform Group Insurance Program. An eligible employee is defined in section 54-52.1-01(1) as follows:

1. 'Eligible employee' shall mean all permanent employees who are employed by the state. Eligible employees shall also include members of the legislative assembly, judges of the supreme court, elective state officers as defined by subsection 1 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workmen's compensation fund. As used in this subsection, 'permanent employee' shall mean any person hired with the intent that he shall be employed for more than twenty hours per week for more than five months each year."

It is noted that the same subsection also defines permanent employees. We must also examine the provisions of section 54-52.1-06 which provides as follows:

STATE CONTRIBUTION - SALARY DEDUCTION FROM EMPLOYEE. Each department, board, or agency shall pay to the board each month from its fund appropriated for payroll and salary amounts a state contribution in the sum of seven and one-half dollars for each of its eligible employees enrolled in the uniform group insurance program, such amount to be applied towards payment of the uniform group insurance cost of each such employee. In addition, the department, board, or agency shall cause to be withheld from each such employee's salary, wages or other compensation, such amount as will equal the remainder of the uniform group insurance cost for that individual employee, and shall forward such amount to the board. The board shall then pay the necessary and proper premium amount for the uniform

group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount shall be credited at least annually to the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled eligible employees. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, he may make direct payment of required premium to the board to continue his coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of his right to make such payment at the time such right arises."

Your question assumes that both husband and wife are eligible employees. The only pertinent question that remains is whether or not the husband and wife were enrolled in a Uniform Group Insurance Program. The contribution authorized in the sum of seven and one-half dollars is for payment toward the uniform group insurance cost in which such employee is enrolled.

As we discussed in the opinion of August 9, 1972, the seven and one-half dollar contribution is paid by the state, but only toward the cost of the Uniform Group Insurance Program. It is not extra additional compensation to be used by the employee in any manner in which he may desire.

The term "enroll" has been defined in Webster's Dictionary as follows:

- 1: to insert, register, or enter in a list, catalog, or roll
- 2: to prepare in written or printed form a final perfect copy of (a bill passed by the legislature)
- 3: to roll or wrap up
- 4: to enroll oneself or cause oneself to be enrolled"

The term "enroll" or "enrolled" has been judicially determined according to Words and Phrases Volume 14A as making a record in writing to the legislature, to enter on rolls of a court, enter in a list or catalogue, to engross or write out in legal form.

The term "enrolled" as used in section 54-52.1-06 is not defined by statute, and has several meanings and is therefore subject to construction.

In accordance with the rules of construction, to determine intent, it will be helpful, if not necessary, to examine the process involved which ultimately resulted in the enactment of chapter 517 of the 1971 Session Laws which has now been codified as chapter 54-52.1 of the North Dakota Century Code.

Initially, House Concurrent Resolution No. 15 or the 1969 Session Laws provided and directed that a study be undertaken to determine the feasibility of purchasing a single group policy to cover health, accident and life insurance for all state employees. It also directed that the Legislative Research Committee make its report and recommendations to the Forty-second Legislative Assembly. This was done and hearings were conducted. The report of the North Dakota Legislative Council to the Forty-second Legislative Assembly in 1971

contains comments with reference to the feasibility of creating a single policy insurance group for state employees. The report discusses benefits to be derived from the Uniform Group Insurance Program and concluded that the cost of insurance for a large group would be considerably lower and would provide for a larger discount. It also stressed that lower administrative costs would result. It also concluded that a large group could take advantage of experiencing rating and it was anticipated that the experience rating would give a reduction in the insurance cost.

The term "enrolled" appears in this report in the following sentence:

Testimony was also received to the effect that in 1963 approximately 97 percent of all state employees were participants in group insurance plans offered by their department or agency, but the percentage of enrolled employees has markedly decreased since, presumably because of the diminished value of the state contribution."

The use of the term "enrolled" in the foregoing sentence suggests that it had the meaning substantially the same as participants. The term "enrolled" is also found in the report in the following sentence:

The Civil Aeronautics Commission, the State Library Commission, the Public Service Commission, the State Fair Association, and the Teachers' Insurance and Retirement Fund Board made no contribution for enrolled employees, while the Poultry Improvement Board contributes \$7.50 monthly per employee, and the State Mill and Elevator contributes \$26.94 monthly per employee."

This statement has reference to the prior practices existing under the former law. Again, the term "enrolled" as used in this sentence suggests that an employee that has coverage. (See pages 134 and 135 of the report of the North Dakota Legislative Council 1971).

The recommendations of the LRC were that the state should provide for a group insurance program. It also recommended that "the employee's family may also be insured at the election of the employee." It is noted that the expression "insured" is used in this instance rather than the term "enrolled." However, this is of great importance as will be explained later.

The Blue Cross and Blue Shield prepared and distributed a pamphlet which explains the benefits and types of coverage available under Blue Cross - Blue Shield, as well as term life insurance under the Uniform Group Insurance Program.

On page 4, we find this statement under the heading WHEN YOU BECOME INSURED:

If you are a full-time employee at the time of the original enrollment, you may enroll yourself and your dependent immediately and become insured on the effective date."

It also provides as follows:

If you are hired as a full-time employee after the effective date, you may enroll yourself and your dependents at once."

The term "enroll" as used in the foregoing sentences clearly means that such dependent or person is covered by the insurance program. It clearly illustrates that the term "enroll" applies not only to the full-time employee, but also to his dependents if the employee takes out a policy providing for family coverage. The insurance company used the term to illustrate that a dependent is considered enrolled. Administratively, it is conceivable that the medical service organization envisioned an actual recording of each dependent, which may or may not be the case, but is not necessarily controlling.

From the examination of the records and transactions leading up to the enactment of the Uniform Group Insurance Program, we are convinced that the term "enroll" or "enrolled" means to have coverage under the Uniform Group Insurance Program.

In direct response to your question, it is our opinion that where a husband wife and both eligible employees and same are covered by a uniform group insurance program whether it be under an individual coverage program or under an optional family coverage type, that the state may contribute \$7.50 toward the payment of the insurance cost for each employee. This is on the assumption that the cost for the uniform group insurance policy costs fifteen or more dollars a month. If, however, such policy does not cost fifteen dollars, the state could contribute only up to the extent of such cost.

Under section 54-52.1-07 we find some legislation which directs the manner in which deductions and assessments shall be made. We recognize that under the family type coverage where both husband and wife or where the dependent or another eligible employee is covered (enrolled) that some administrative problems will arise that need to be resolved. In this respect, we would anticipate that a conference with the Accounts and Purchases Department be arranged to resolve these problems. We would also call attention to the board that under section 54-52.1-08 it has the power to promulgate rules and regulations to carry out the provisions of chapter 54-52.1. It is conceivable that the board would have to adopt such regulations covering the manner in which the assessments shall be deducted and the allocation of the contribution toward such Uniform Group Insurance Program.

HELGI JOHANNESON

Attorney General