

**OPINION
71-330**

August 9, 1971 (OPINION)

Mr. Tor Hegland

Executive Director

North Dakota Public Employees

Retirement System

RE: State - Group Insurance Options

This is in response to your letter in which you state that the board has awarded a contract to Blue Cross and to Blue Shield for hospital and medical benefits and to Northern National for life insurance. You further state that the board would like to provide, as an employee option, the privilege of carrying life insurance benefit coverage without hospital and medical benefit coverage, considering life insurance alone as a subgroup. You then ask:

"If an employee elects to carry only the life insurance benefit coverage, will the employer agency be required to contribute \$7.50 per month for such coverage?"

Your further ask:

"Assuming that the answer to the first question is in the affirmative and assuming further that the costs of life insurance benefit chosen by the employee is less than \$7.50 per month, how can the board use such excess employee contribution under this law?"

Chapter 54-52.1 was enacted by chapter 517 of the 1971 Legislative Assembly. It replaced and continued the basic concepts formerly found in chapter 52-12 of the North Dakota Century Code which was enacted by chapter 340 of the 1963 Legislative Assembly, and at the same time repealed chapter 52-12.

The purpose and the underlying reason for such insurance coverage is set out in section 54-52.1-02 which provides as follows:

"UNIFORM GROUP INSURANCE PROGRAM CREATED - FORMATION AND SUBGROUPS. In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high grade men and women to enter and remain in the service of state employment, there is hereby created a uniform group insurance program. The uniform group shall be composed of eligible employees, and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into subgroups at the discretion of the board."

In comparing this language with section 1 of chapter 340 of the 1963

Session Laws, we find that same are in harmony. We would further conclude that the basic purpose and reason for the uniform group insurance program has not been changed by the adoption of chapter 54-52.1 and the repeal of chapter 52-12.

Section 54-52.1-02 in part provides that:

"* * * The uniform group shall be composed of eligible employees, and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter.* * *"

It further provides that the uniform group may be divided into subgroups at the discretion of the board. In examining the other provisions of chapter 54-52.1, particularly section 54-52.1-05, we find that optional coverages are permitted.

We do not believe the optional coverage is related to subgroups mentioned earlier. We do not believe that the legislature intended for the board to create a subgroup for different types of optional coverage. The term "subgroup" would apply to certain employees either by occupation or by geographic location or such other related criteria. The term "optional coverages" obviously implies that there is some coverage, but the individual employee is permitted to select certain items or reject certain items within the coverage. It does not mean to eliminate one type of coverage completely.

In referring to the uniform group, we are impressed that the legislature used the conjunctive coverages; namely, hospital, medical, and life. These different types of coverages are not set forth in the disjunctive. We believe this is significant by taking into account the stated purpose of having uniform group insurance.

With reference to optional coverage as such term is found in section 54-52.1-05, we note that section 54-52.1-07 provides for an election to be exercised by the employee to either include or exclude the employee's spouse or dependents. In this respect, the election to include or exclude the spouse and dependents is with reference to hospital benefits and medical benefits. Naturally, life insurance would not be a matter of including or excluding the employee's spouse or dependents.

The legislature used the term "uniform group insurance program", we believe, for a specific purpose.

In reviewing the various provisions of chapter 54-52.1, we come to the conclusion that each employee to be a part of the uniform group or even subgroup must carry the minimum coverage for hospital and medical benefits and life insurance benefits. We do not believe that a subgroup can be created for only those who carry life insurance or another subgroup for those who carry only medical benefits or another subgroup which carries only hospital benefits. In this respect we recognize a distinction between optional coverages as permitted under section 54-52.1-05 and subgroups which may be created by the board.

Carrying only life insurance by an employee would not appear to satisfy the stated purposes of the act. In fact, it would defeat the

purposes and advantages of a uniform group.

The contribution by the employer (state department, board or agency) in the sum of \$7.50 for each of the employees is conditioned that the employee be enrolled in the uniform group insurance program. Such amount is to be applied toward payment of the uniform group insurance cost for each such employee. It is not merely an increase in salary.

Thus, in direct response to your first question, if an employee elects only to carry life insurance benefits but is not enrolled in the uniform group insurance program for hospital and medical benefits, the employer is not required to make any contribution for such employee. Because of the answer to question number 1, it is not necessary to answer or discuss question number 2.

HELGI JOHANNESON

Attorney General