

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

AUG 20 1985

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable B. Don Hale
City Attorney
City of Cullman
409 6th Street S.W.
Cullman, AL 35055

Municipalities - Mayors -
Councilmen - Compensation -
Insurance

Payment of group health insurance
premiums for municipal officers
and dependents discussed.

Dear Mr. Hale:

The opinion request of the City of Cullman has been received in the Office of the Attorney General. Your first question is:

Under Section 4 of Ordinance 893 of the City of Cullman, Alabama, may the City of Cullman, Alabama, legally pay for family health insurance coverage for the mayor, council members and their families as part of their compensation or salary?

Section 4 of Ordinance 893 reads as follows:

In addition to the above salaries, the Mayor and any member of the City Council shall be included in any group health insurance plan offered by the City, or any other agency of said City government for which he might be eligible.

In an opinion to Honorable William Brigham, City of Mobile, under date of December 9, 1980, this office held that a municipality may enter into a group insurance plan for city

employees and their dependents. Code of Alabama 1975, § 11-91-1 et seq. contain permissive authority for officers, as well as employees, to receive coverage. Thus, as a class, dependents of municipal officers can be treated the same as dependents of employees.

The question of whether the language of Section 4, Ordinance 893, is broad enough to include dependents is, however, a factual question and one on which this office is, therefore, precluded from making such a determination. Such a determination must be made by the council or a court of competent jurisdiction.

Your final question is:

If your reply to question number 1 above is in the affirmative, in the event a council member has group health insurance (family plan) from another source, may the City of Cullman legally pay the said council member the amount that would have been paid for them if they did not have such other coverage?

Code of Alabama 1975, § 11-91-1 states that a municipal governing body "shall have power and authority to contract for and obtain and maintain policies of group ... health ... insurance". Your request states that these payments would be made to the councilmember and not to another insurer. There is no authority for providing cash payments to officers in lieu of the payment of insurance premiums. Therefore, it is the opinion of this office that the City of Cullman may not legally pay a councilmember a sum equal to a premium which would be paid to provide insurance coverage if the councilmember had no other coverage.

I do hope that this response sufficiently answers your inquiry. If, however, we may be of further service, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

By:



CAROL JEAN SMITH
Assistant Attorney General