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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Kay Kelley
Board President, North Shelby Library
5521 Cahaba Valley Road
Birmingham, Alabama 35242

Library Boards – Health Insurance – Local
Government Health Insurance – State
Employees’ Insurance Board – Shelby
County

The provisions of section 36-29-14(f) of the Code of Alabama requiring a six-month notice of withdrawal and the payment of claims incurred prior to the date of withdrawal apply to the request of the North Shelby Library for withdrawal from the Local Government Health Insurance Program.

Dear Ms. Kelley:

This opinion of the Attorney General is issued in response to your request on behalf of the North Shelby Library.

QUESTION

Do the provisions of section 36-29-14(f) of the Code of Alabama apply to the North Shelby Library for withdrawal from the Local Government Health Insurance Program, specifically the six-month notice requirement and the requirement for paying claims incurred prior to the date of withdrawal?

FACTS AND ANALYSIS

Your request states that the North Shelby Library (“Library”) is a public corporation established by Act 88-258. The Library, since 1994, has provided

health insurance to its employees and their dependents through the Local Government Health Insurance Program ("Local Program") as set forth in section 36-29-14 of the Code of Alabama. ALA. CODE § 36-29-14 (Supp. 2009). The Library now wishes to withdraw from the Local Program, and you question whether the specific provisions in section 36-29-14(f) of the Code apply to the Library's withdrawal.

Section 36-29-14(a) of the Code of Alabama provides local governmental entities with the authority to elect to provide health insurance coverage to its officers, members, employees, and retired employees under the State Employees' Insurance Board. It states as follows:

(a) Any agency of the state, or any governmental entity, body, or subdivision thereto, any county, any municipality, any municipal foundation, any fire or water district, authority, or cooperative, any regional planning and development commission established pursuant to Sections 11-85-50 through 11-85-73, that is not and was not for the 12 months immediately preceding the date of application to participate in any plan created pursuant to the provisions of this article a member of an existing government sponsored health insurance program, formed under the provisions of Section 11-26-2, the Association of County Commissions of Alabama or the Alabama League of Municipalities, the Alabama Retired State Employees' Association, the Alabama State Employees Credit Union, Easter Seals Alabama, Alabama State University, the Alabama Rural Water Association, Rainbow Omega, Incorporated, The Arc of Alabama, Incorporated, and any of the affiliated local chapters of The Arc of Alabama, Incorporated, any railroad authority organized pursuant to Chapter 13, Title 37, or any solid waste disposal authority organized pursuant to Chapter 89A, Title 11, by resolution legally adopted to conform to rules prescribed by the State Employees' Insurance Board, may elect to have its officers, members, employees, and retired employees become eligible for health insurance coverage under the State Employees' Insurance Board without any liability to the state or the State Employees' Health Insurance Plan.

Subsection (f) of this section sets forth the provisions for revoking the agreement to be covered by the Local Program. This subsection states as follows:

(f) The agreement of any employer to have its employees, officers, members, and retirees to be covered under the health insurance plan provided by the State Employees' Insurance Board *may be revoked only by complying with the following provisions:*

The *employer, by resolution of the governing body*, shall signify its intention and *desire to withdraw* from such plan in *writing* and by delivering a copy of such resolution by certified mail to the State Employees' Insurance Board *no later than six months prior to the effective date of withdrawal*. Any employer that withdraws from participation in such plan *shall be responsible for paying its claims incurred prior to the date of withdrawal, but not reported and paid prior to the date of withdrawal*. The withdrawing employer shall also be liable for interest which will accrue at a rate of one and one-half percent per month on any monies due to the State Employees' Insurance Board which are over 30 days past due. Any organization which provides or administers health insurance benefits through the Local Government Health Insurance Program shall not provide or administer health insurance benefits to any entity which withdraws from the Local Government Health Insurance Program for a period of two years from the effective date of withdrawal.

ALA. CODE § 36-29-14(f) (Supp. 2009) (emphasis added).

The language of this subsection clearly allows an employer who has elected to be covered under the Local Program to withdraw from the Local Program if the specific conditions set forth in this section are met. Those specific provisions include, but are not limited to, a requirement that a resolution from the governing body indicating an intention to withdraw must be submitted to the State Employees' Insurance Board six months prior to the effective date of withdrawal and the employer wishing to withdraw must pay claims incurred prior to the date of withdrawal.

As authority that the employer does not have to provide six months' notice to withdraw from the plan, you cite a provision in the Local Government

Health Benefit Plan that relates to the terms of coverage for employees that states that a member's health insurance coverage terminates when premium payments cease. This provision is not related to the authority of an employer to choose to elect to participate or withdraw from the Local Program but is a specific provision relating to the terms of coverage applicable to individual employees once the employer has elected to participate in the Local Program. This provision also states that coverage terminates for an employee when the plan is discontinued. An individual employee cannot discontinue the "plan," only an employer may discontinue the plan by electing to withdraw from the plan as set forth in section 36-29-14(f) of the Code.

CONCLUSION

The provisions of section 36-29-14(f) of the Code of Alabama requiring a six-month notice of withdrawal and the payment of claims incurred prior to the date of withdrawal apply to the request of the North Shelby Library for withdrawal from the Local Government Health Insurance Program.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division