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Honorable William L. Ashmore
Chief Executive Officer
State Employees' Insurance Board
Post Office Box 304900
Montgomery, Alabama 36130-4900

Health Insurance – State Employees – State Employees' Insurance Board

The State Employees' Insurance Board ("SEIB") may establish premium categories within a class of employees or retirees.

The SEIB does not have the authority to establish different premium categories for retirees who retire before or after a certain date.

Dear Mr. Ashmore:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

(1) Based on the broad powers granted to the State Employees' Insurance Board under section 36-29-1, *et seq.*, of the Code of Alabama, does the SEIB have the authority to establish premium categories within the various classes of employees and retirees covered under the State Employees' Health Insurance Plan?

(2) If so, does the SEIB have the authority to establish such categories within the retiree classes based upon when an employee retires (i.e., a premium for those retiring on or before September 30, 2010, and

a premium for those retiring on or after October 1, 2010)?

FACTS AND ANALYSIS

Your request states that, in the past, the State Employees' Insurance Board has established a single premium for each employee or retiree class. You further state that because of the varying costs and risks associated within the employee and retiree classes, the SEIB is considering establishing categories of premiums within each class in order for the premium to more equitably reflect the actual cost and risk of the class members.

The SEIB is created pursuant to section 36-29-1, *et seq.*, of the Code of Alabama. ALA. CODE § 36-29-1 to 36-29-19.8 (2001 & Supp. 2009). The SEIB's authority to establish premium categories stems from section 36-29-1(7), which defines "health insurance premium" as follows:

> The total health insurance cost under the Employees' Health Insurance Plan with respect to each class of employees or retirees. Individual ***premiums may include adjustments and surcharges for*** (i) family size including, but not limited to, a husband and wife both being covered by the State Employees' Health Insurance Plan, (ii) smokers and users of tobacco products, (iii) preventative care and wellness care participation, and (iv) ***any such other categories of risk that the board shall approve.***

ALA. CODE § 36-29-1(7) (Supp. 2009) (emphasis added).

Section 36-29-1(2) defines "class" as follows:

> An employee or retiree shall be included in one of the following classes: (i) active employee single, (ii) active employee family, (iii) non-Medicare retiree single, (iv) non-Medicare retiree family, (v) Medicare retiree single, (vi) Medicare retiree family, (vii) non-Medicare retiree with Medicare eligible dependent(s), or (viii) Medicare retiree with non-Medicare dependent(s).

ALA. CODE § 36-29-1(2) (Supp. 2009).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331,333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). Section 36-29-1(7) plainly states that the SEIB is permitted to adjust premiums within an employee or retiree class based on the employee's or retiree's category of risk.

A retiree class based on a date of retirement is not one of the several classes enumerated in section 36-29-1(2). Under the well-established rules of statutory construction, where a statute enumerates certain things on which it is to operate, the statute must be construed to exclude all things not expressly mentioned. *Ex parte Holladay,* 466 So. 2d 956, 960 (Ala. 1985). Where, as here, the Legislature has chosen not to give the SEIB the authority to establish premium categories within a class based on a date of retirement or other similar date qualifier, it is the opinion of this Office that the SEIB may not do so.

CONCLUSION

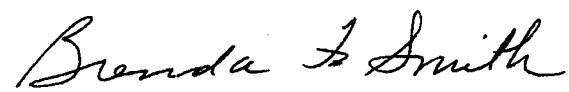
The State Employees' Insurance Board may establish premium categories within a class of employees or retirees.

The SEIB does not have the authority to establish different premium categories for retirees who retire before or after a certain date.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING
Attorney General
By:



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