

1091

GROUP LIFE INSURANCE, STATE EDUCATIONAL INSTITUTION EMPLOYEES: AVAILABLE TO, WHEN — §3917.01 R.C.

SYLLABUS:

1. Under Section 3917.01, Revised Code, a company engaged in the business of writing group life insurance in the state of Ohio may issue policies of group life insurance covering the employees of educational institutions supported in whole or in part by public funds of the state only when the premiums for such policies are entirely paid by the employees of such institutions and only such policies may be acquired by state universities.

2. The provisions of Section 3917.01, Revised Code, apply only in the field of group life insurance.

Columbus, Ohio, January 19, 1960

Hon. George A. Bowman, President
Kent State University, Kent, Ohio

Dear Sir :

I have before me your request for my opinion on the following questions:

1. Does Section 3917.01 (B) (7), Revised Code, as amended by the 103rd General Assembly authorize the boards of trustees of the state universities to acquire and pay for group life insurance coverage for all of their employees?

2. Does Section 3917.01, Revised Code, have application to health and hospitalization insurance?

Section 3917.01, Revised Code, is a definition section and the definitions contained therein apply only in the field of group life insurance. This is evidenced by the fact that Section 3917.01 (A), Revised Code, sets forth what is group life insurance. Section 3917.01 (B), Revised Code, contains several subsections, all of which are prefaced and must be read in light of the following qualified language:

“(B) As used in sections 3917.01 to 3917.06, inclusive, of the Revised Code, the following forms of life insurance are group life insurance:”

Clearly, then, in answer to your second question, Section 3917.01, Revised Code, applies only to group life insurance.

This section of the code in its earlier forms has been dealt with in several opinions of the Attorney General written by my predecessors in this office. From these opinions and from a reading of the statutes, it becomes evident that the statute, by setting forth what constitutes group life insurance, has the effect of limiting the authority of life insurance companies authorized to do group life insurance business in the state of Ohio, to those classes listed in Section 3917.01, Revised Code. (Opinion No. 4685, Opinions of the Attorney General for 1941, page 1091 and Opinion No. 5252, Opinions of the Attorney General for 1955, page 240.)

In Opinion No. 4685, Opinions of the Attorney General for 1941, page 1091, the Attorney General had before him the question of whether or not a municipality could pay the premiums for a group life insurance policy covering its employees. The then Attorney General came to the conclusion that, although a municipality had the authority to make such payments under the Home Rule powers, it was unlawful for an insurance company to issue a contract of group life insurance covering the employees of the municipality unless the entire premium on such policy was paid by such employees. I quote with approval the following language contained in said opinion beginning on page 1097 thereof :

“Although the General Assembly does not have power to prohibit municipal corporations from making such expenditures except as to members of the police and fire departments, it does not follow that an insurance company may not be prohibited from issuing such a contract in this state. In *State, ex rel. Allstate Insurance Company v. Bowen*, 130 O.S., 347, it was held as is shown by the first paragraph of the syllabus :

‘The business of insurance is one of public interest, affecting all classes of people and property, and is therefore properly the subject of legislative regulation and control. Domestic and foreign corporations engaged in the insurance business in Ohio must conform their business and contracts to the provisions of the statutes of Ohio regulating and controlling the same.’ (*Verducci v. Casualty Co. of America*, 96 Ohio St., 260, 117 N.E., 235, approved and followed.)’

“The General Assembly unquestionably has constitutional power, therefore, to prohibit insurance companies from issuing a contract covering a group of employes of a municipal corporation where the entire premium thereon is not to be paid by such employes, even though it may not have power to prohibit the municipal corporation itself from making such payment. In other words, if an insurance company enters into a contract whereby it insures

the lives of a group of municipal employes, it violates the laws of this state if the policy does not provide that the entire premium on such policy is to be paid by the employes, even though the premium on such a policy may be lawfully paid by a municipal corporation.”

Section 3917.01 (B) (7), Revised Code, defines a type of group life insurance in the following language :

“(7) Life insurance covering employees of a political subdivision or district of this state, or of an educational or other institution supported in whole or in part by public funds, or of any classes thereof determined by conditions pertaining to employment, or of this state or any department or division thereof, written under a policy issued to such political subdivision, district or institution, or the proper official or board of such state department or division which is the employer for the purpose of such sections, the premium on which is to be paid by such employees for the benefit of persons other than the employer except when the employer is a city or an educational institution supported in whole or in part by public funds of a city such premium may be paid by the employees or by the employees and employer jointly or by the employer ; provided that this section does not permit the state or any of the political subdivisions enumerated to pay any premium stated in this section except when the employer is a city or an educational institution supported in whole or in part by public funds all or part of such premium may be paid by such city or institution ; and provided that when the benefits of the policy are offered to all eligible employes of a political subdivision or district of the state or of an educational or other institution supported in whole, or in part by public funds, or of a state department or division, not less than seventy-five per cent of such employees may be insured ; and provided that when employees apply and pay for additional amounts of insurance, a smaller percentage of employees may be insured for such additional amounts if they pass satisfactory medical examination ; and provided that upon acquisition by a political subdivision of any privately owned property or enterprise, the employees of which have been covered by a group policy of life or other insurance as employees of such private employer, such political subdivision and insurance company may continue such contract in force upon similar conditions as the last preceding private employer.”

The authority of a life insurance company which is authorized to issue policies of group life insurance is limited in that such policies must comply with the provisions of this section in order to be classified as group life insurance policies. The requirements of Section 3917.01 (B) (7),

Revised Code, as they relate to group life insurance policies covering employees of educational institutions supported in whole or in part by public funds can be paraphrased as follows:

- (B) The following form of life insurance is group life insurance:
- (7) Life insurance covering employees of—an educational—institution supported in whole or in part by public funds—written under a policy issued to such—institution—the premium on which is to be paid by such employees for the benefit of persons other than the—employer except when the employer—is—an educational institution supported in whole or in part by public funds *of a city*, such premium may be paid by the employees or by the employees and employer jointly or by the employer;

(Then follow certain other provisions which have no effect upon this opinion.)

Clearly, from the above, an insurance company has no authority to issue a policy of insurance covering an educational institution supported in whole or in part by public funds, other than public funds of a city, unless the premiums thereof are to be entirely paid by the employees.

There is some confusion in the statute created by the phrase that immediately follows the above paraphrased statements which reads in its entirety as follows:

“* * * provided that this section does not permit the state or any of the political subdivisions enumerated to pay any premium stated in this section except when the employer is a city or an educational institution supported in whole or in part by public funds all or part of such premium may be paid by such city or institution; * * *”

At first reading this provision seems to authorize a state educational institution to pay for group life insurance on its employees. However, I do not believe that it does since it is not affirmative authority and the affirmative authority contained in this section does not so provide, but is limited specifically to cities. However that may be, this provision clearly applies only to the authority of the political subdivisions or the state and has no application to the authority of an insurance company to write this particular type of business. Nor is this a requirement essential to the classification of an insurance contract as a group life insurance contract. It

may be noted, however, that except for this omission of the words "of a city," the amendment by the 103rd General Assembly to this part of Section 3917.01, Revised Code, has the effect of merely authorizing the payment which was prohibited by Opinion No. 4685, Opinions of the Attorney General for 1941, *supra*. Whether or not it was an oversight on the part of the Legislature that the words "of a city" are not included to modify the term "public funds" as used in this provision is of no importance in answering your question. Since there is no authority in law for the issuance of such a policy to a state educational institution, whether or not such an institution has authority to pay is a moot question.

In accordance with the above it is my opinion and you are advised that:

1. Under Section 3917.01, Revised Code, a company engaged in the business of writing group life insurance in the state of Ohio may issue policies of group life insurance covering the employees of educational institutions supported in whole or in part by public funds of the state only when the premiums for such policies are entirely paid by the employees of such institutions and only such policies may be acquired by state universities.

2. The provisions of Section 3917.01, Revised Code, apply only in the field of group life insurance.

Respectfully,

MARK McELROY

Attorney General