

**OPINION NO. 79-060****Syllabus:**

R.C. 3923.231 does not require an insurer to accept a certification of disability by a licensed psychologist for the purpose of paying disability or supplemental income benefits to the insured or certificate holder of the insured.

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**To: Harry V. Jump, Director, Ohio Department of Insurance, Columbus, Ohio**  
**By: William J. Brown, Attorney General, September 27, 1979**

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

Does a private contract between the insurer and the policyholder violate R.C. 3923.231 when the insurer refuses to accept the certification of disability by a licensed psychologist for the payment of disability or supplemental income benefits to the insured or certificate holder of the insured?

Your letter indicates that insurers, when processing claims for disability income or supplemental income benefits, often require a statement from an attending physician to certify that a disability exists. You also state that some insurers define physician as a medical doctor or doctor of osteopathy and, therefore, refuse to pay disability income or supplemental income benefits unless the certificate of the disability is from a physician so defined. Consequently, when a licensed psychologist, without consultation with an attending medical doctor or doctor of osteopathy, certifies that the insured is disabled by mental disorders, the policyholder's disability claims are refused. The insurer will, however, reimburse the psychologist for the charges incurred in diagnosing or treating the policyholder.

Pursuant to R.C. 3923.231, whenever an insurance policy issued or renewed after December 31, 1973, provides for reimbursement for any service that may be legally performed by a person licensed in this state as a psychologist, as defined in R.C. 4732.01(A), reimbursement for such service shall not be denied when such service has been rendered by a person so licensed who possesses a doctorate of psychology or has a minimum of five years of clinical experience.

The first issue involved in your question is whether the action of a psychologist in certifying an emotional disability to an insurance carrier comes within the statutorily defined "practice of psychology." R.C. 4732.01(B) sets forth the scope of services which may be legally performed by a psychologist as follows:

"The practice of psychology" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the application of psychological procedures to assessment,

diagnosis, prevention, treatment, or amelioration of psychological problems or emotional or mental disorders of individuals or groups; or to the assessment or improvement of psychological adjustment or functioning of individuals or groups, whether or not there is a diagnosable pre-existing psychological problem. . . .

A certification of disability must inherently involve "application of psychological procedures to assessment, diagnosis [or] prevention. . . of psychological problems or emotional or mental disorders." R.C. 4732.01(B). Assessment and diagnosis of mental disorders are, thus, services that may be legally performed by a psychologist as defined in R.C. 4732.01(B). Therefore, an insurer that provides for reimbursement of the cost of such psychological services must reimburse the charges of the psychologist who performs said services for the insured.

A payment of disability income or supplemental income benefits differs, however, from a payment of reimbursement for psychological services. In the normal use of the terms, a payment of reimbursement for services is paid either directly to the provider for rendering health services or to the insured as reimbursement for the cost of the services, whereas a payment of disability income benefits is paid directly to the insured to compensate for lost income, and not as reimbursement for the cost of any services. Although R.C. 3923.231 may require reimbursement of the cost of the services performed by a psychologist, that statute does not require an insurer to accept the psychologist's diagnosis of an insured's disability for the purpose of triggering the payment of disability income payments to the insured. In short, R.C. 3923.231 mandates only reimbursement for psychological services as opposed to reimbursement for lost income. Hence, the provisions of R.C. 3923.231 are not pertinent to an insured's claim for disability income payments or supplemental income benefits.<sup>1</sup>

In specific response to your question, it is, therefore, my opinion, and you are advised, that R.C. 3923.231 does not require an insurer to accept a certification of disability by a licensed psychologist for the purpose of paying disability or supplemental income benefits to the insured or certificate holder of the insured.

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<sup>1</sup>A few words are in order concerning the limited nature of this opinion. You have not asked, and I have not opined that the insurer's refusal to pay disability income benefits absent a physician's certificate is lawful. You have asked whether one specific statute (R.C. 3923.231) mandates payments of disability income benefits based on a psychologist's certificate. Such is not mandated by R.C. 3923.231. Whether it is mandated by the insurance contract in conjunction with the General Assembly's recognition of the professional status of psychologists and their statutory warrant to perform certain psychological services is beyond the scope of this opinion.