

1983 S.C. Op. Atty. Gen. 65 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-44, 1983 WL 142715

Office of the Attorney General

State of South Carolina

Opinion No. 83-44

July 22, 1983

**\*1 RE: Insurance for Active Employees who are Drawing State Retirement**

Mr. Lewis Boyd-Leopard  
Insurance Benefits Supervisor  
Personnel Division  
1205 Pendleton Street  
Columbia, South Carolina 29201

Dear Mr. Boyd-Leopard:

You have requested information as to the proper classification, for health insurance purposes, of several employees who have retired but who continue in active employment with the State. This arrangement is permitted by § 9-1-1790, which provides that any retired member may return to covered employment and earn up to \$6,000 per fiscal year; when the member earns more than that in a fiscal year, the retirement allowance for that year is discontinued. This procedure may continue for as long as 48 consecutive months, after which time, if the person continues in active employment, he is considered to have returned to fulltime employment.

The State health insurance program provides for health insurance for both active employees and for retirees. However, certain portions of the retirees' program (such as insurance on dependents of retirees), are charged at higher rates than applicable to participants in the active employees' insurance program. The employees in question contend that they are working as active employees in fact and should be so carried for insurance purposes.

The state health insurance contract provides that '[a]ll full-time employeess,' defined elsewhere as employees who work at least 30 hours per week for more than 5 months per year, are eligible for coverage under the 'active employees' classification. Coverage as a retiree is defined in terms of additional eligibility, that is, as an additional benefit for retired employees rather than as a category into which all retirees must be placed even where they are working fulltime as permitted by § 9-1-1790. Based on the language of the contract, it is the opinion of this office that retired employees who work fulltime as permitted by § 9-1-1790 are eligible to be covered as 'active employees' when they so request.

Sincerely yours,

Kenneth P. Woodington  
Senior Assistant Attorney General

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