

1972 WL 25349 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 8, 1972

**\*1 Re: No. 307—State Employees/Health Insurance Program (1972-73 Appropriations Bill)**

Mr. F. B. Ellis  
State Director of Personnel  
700 Knox Abbott Drive  
Cayce, South Carolina 29033

Dear Mr. Ellis:

At your request, I am answering the following questions you posed concerning the Health Insurance Program for State Employees:

1. Must employees specify the amount and designate a specific insurance company to receive payment when authorizing payroll deductions for participation in the Health Insurance Program for State Employees?
2. Who is eligible to participate in the Insurance Program for State Employees?
3. May Federal or other special funds be used to pay employer contributions to more than one health insurance plan, i.e., Federal, State, local/municipal?

There is no legal requirement that employees specify the amount nor designate the particular company to receive payroll deductions for group life and hospital insurance; and, therefore, it would be sufficient for employees simply to request payroll deductions for participation in the Insurance Program for State Employees and designate the particular coverage desired. Section 1-49 of the Code of Laws of South Carolina (1962) in part states:

Section 1-49. Deductions for group life and hospital insurance. The Comptroller General shall, upon request of employees of the State, make deductions from the compensation of such employees for the payment of premiums for group life and hospital insurance . . . . He shall pay over to the insurance company, or its agents designated to receive such funds, all amounts so collected or withheld . . . .

I interpret this statute to require the employee to request deductions for group plans, which may be payable to more than one company and may even change from one company to another.

As for the eligible employees, the status of State Employees depends on the compensation paid directly to the employee by the State and the direct control exercised by a State officer or body. (See 81 C.J.S. States § 53 and [Goodman v. Ralph](#), 294 N.Y. 169, 61 N.E. 2d 430. See also definition of 'employee' for retirement purposes in Section 61-1(4), Code of Laws of South Carolina, 1962) Therefore, anyone who receives compensation directly from the State and is under the direct control of a State officer or body would necessarily be a State employee.

Using Federal or other special funds to pay contributions to more than one insurance plan may be a real problem since it is conceivable that an employee may be eligible for more than one plan (Federal, State and local) because of payment or control arrangements in particular positions. In my opinion, Federal or other special funds must be legally authorized by the respective

funding agencies for such purposes since special funds must be administered and expended according to the laws establishing them. (See 81 C.J.S., States § 158.)

Please feel free to contact me as other questions arise in the actual administration of this newly vested Health Insurance Program for State Employees.

Sincerely yours,

\*2 Hardwick Stuart, Jr.  
Assistant Attorney General

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