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Opinion No. 02-025

Tennessee Code Annotated § 8-27-303; Use of state funds received by local education agency that provides "equal or superior" insurance plan

QUESTIONS

1. Must a local education agency that provides an "equal or superior" plan pay the amount of premium collected for each employee under Tennessee Code Ann. § 8-27-303 (a)(1)(A) toward that employee's health insurance cost regardless of type of coverage the employee has (family or single coverage)?

2. Must a local education agency that provides an "equal or superior" plan pay the amount of premium collected for each employee under Tennessee Code Ann. § 8-27-303 (a)(1)(A) toward that employee's health insurance regardless of the portion of the total cost of the premium represented by the amount collected for each employee?

OPINIONS

1. No. Tennessee Code Ann. § 8-27-303(j) directs a local education agency, including one that provides an "equal or superior" plan, to apply a certain portion of the funds it receives from the State to the insurance premiums of eligible employees who participate in the insurance plan provided by the local education agency. Instead of setting a specific dollar amount, the statute requires the local education agency to pay as a minimum the same percentage specified in the general appropriations act of the premium collected on behalf of each employee. This percentage applies regardless of the type of coverage selected by the employee, so that the dollar amount paid on behalf of each employee varies with the type of coverage.

2. No. Tennessee Code Ann. § 8-27-303(j) requires the LEA to pay at least the same percentage specified in the general appropriations act of the premium collected on behalf of each employee. Consequently, even if the LEA's "equal or superior" plan is cheaper than the statewide basic local education insurance plan, the LEA is required only to pay the percentage established in the general appropriations act for the relevant period.

ANALYSIS

Tennessee Code Ann. §§ 8-27-301 through -07 provide for the establishment of a group insurance plan for local education employees by a local education insurance committee. The insurance committee contracts for group insurance, which insurance is made available to any eligible employee whose local education agency ("LEA") opts to utilize the basic group insurance plan. Not all LEA's use the basic insurance plan. Instead, these LEA's make health insurance available to eligible employees through an "equal or superior" plan, as allowed under Tenn. Code Ann. § 8-27-302(a).

Tennessee Code Ann. § 8-27-303 addresses, in part, who bears the costs for the insurance made available to eligible local education employees. Subsection (a)(1)(A) authorizes the Department of Education to pay, on behalf of each eligible local education employee, an amount determined annually in the general appropriations act toward the employee's participation in the basic insurance plan. Where local education employees receive health insurance through an approved "equal or superior" plan, Tenn. Code Ann. § 8-27-303(a)(2) authorizes the local education agency to receive directly the payments provided for in Section 8-27-303(a)(1)(A).

Subsection (j) of this statute insures that a LEA shall use the funds it receives from the State for educational personnel benefits. Tennessee Code Ann. § 8-27-303(j) provides, in relevant part:

> (j) [E]ach local education agency shall pay on behalf of each eligible employee . . . participating in the health insurance coverage authorized by § 8-27-302(a) or subdivision (a)(2) as a minimum the percentage specified in the general appropriations act of the premium collected on behalf of each such employee. Distribution of a like amount to each eligible employee through a flexible spending arrangement authorized by § 125 of the Internal Revenue Code shall satisfy the requirements of this subsection. . . .

Subsection (j) directs a LEA, including one that provides an "equal or superior" plan, to apply a certain portion of the funds it receives from the State to the insurance premiums of eligible employees who participate in the insurance plan. Instead of setting a specific dollar amount, the statute requires the LEA to pay at least the same percentage specified in the general appropriations act of the premium collected on behalf of each employee. As an example, if the general appropriations act commits the State to pay 45% of the total statewide cost of providing local education insurance, then each LEA must pay as a minimum 45% of the cost of each participating employee's insurance premium. The LEA may pay all or a portion of the remaining 55% of the premium cost, or it can transfer the cost to the employee. Tenn. Code Ann. § 8-27-302(b), (c). As an alternative to applying State funds to pay for employees' insurance premiums, Tenn. Code Ann. § 8-27-303(j) permits the LEA to distribute a like amount to each eligible employee through an flexible spending arrangement authorized by § 125 of the Internal Revenue Code .

Your inquiry posits two related questions about the use of state funds by an LEA that provides an "equal or superior" plan. First, you ask whether a LEA must pay the amount of premium it collects from the State for each employee toward that employee's health insurance cost regardless of the type of coverage the employee has, i.e., family or single coverage. As explained above, Tenn. Code Ann. § 8-27-

303(j) requires that the LEA pay as a minimum the same percentage that is specified in the general appropriations act. This percentage applies regardless of the type of coverage selected by the employee, so that the dollar amount paid on behalf of each employee varies with the type of coverage. For example, assume one employee has family coverage and another has individual coverage, and the premiums for these types of coverage are not the same. Further assume that the general appropriations act specifies 45%. The LEA must pay as a minimum 45% of each employee's insurance premium. This amount will differ for the two employees, because the two employees' premiums differ.

Your second question asks whether a LEA must pay the amount of premium it collects from the State for each employee toward that employee's health insurance regardless of the portion of the total cost of the premium represented by the amount collected for each employee. The answer to this question is essentially the same as the answer to the first question. Tennessee Code Ann. § 8-27-303(j) requires the LEA to pay at least the same percentage specified in the general appropriations act of the premium collected on behalf of each employee. Consequently, even if the LEA's "equal or superior" plan is cheaper than the statewide basic local education insurance plan, the LEA is required only to pay as a minimum the percentage established in the general appropriations act for the relevant period.

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