STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

January 21, 2014

Opinion No. 14-11

Confidentiality of Workers' Compensation Policy Information

QUESTION

Is the date that a workers' compensation policy is cancelled included within the meaning of a "policy expiration date" under Tenn. Code Ann. § 50-6-421(b) for purposes of determining whether such information is confidential and not a public record under Tenn. Code Ann. § 50-6-421(a)?

OPINION

No. The date that a workers' compensation policy is cancelled is not a "policy expiration date" and is therefore confidential.

ANALYSIS

Tennessee Code Ann. § 50-6-421(a) provides that:

> The commissioner of labor and workforce development may request and obtain information regarding employer workers' compensation insurance policies in order to ensure compliance with the law. Except as otherwise provided in subsection (b), any information relating to workers' compensation insurance policies obtained by the commissioner pursuant to this subsection (a) shall be deemed confidential and shall not constitute a public record, as defined in § 10-7-503; provided, such information may be used by any state agency, or vendor designated by the state, for the purpose of ensuring compliance with the law.

Subsection (b) of this section provides an exception to the above:

> The following information obtained by the commissioner pursuant to subsection (a) shall constitute a public record, as defined in § 10-7-503, and shall be open for personal inspection by any citizen of this state:
>
> (1) Employer name and business address;

> (2) Workers' compensation insurance carrier name and business address; and
>
> (3) Workers' compensation insurance policy number, policy effective date, and policy expiration date.

Tenn. Code Ann. § 50-6-421(b)

The statute does not define what constitutes an "expiration"; however, it is a basic rule of statutory construction that when construing or interpreting statutes, courts must "ascertain and carry out the legislature's intent without unduly restricting or expanding a statute beyond its intended scope." *Lavin v. Jordan*, 16 S.W.3d 362, 365 (Tenn. 2000). In so doing, courts "examine the 'natural and ordinary meaning of the language used, without a forced or subtle construction that would limit or extend the meaning of the language.' Where the language of the statute is clear and unambiguous, . . . [courts] will give effect to the statute according to the plain meaning of its terms." *Id.* at 365 (citations omitted).

A "cancellation" is "[a]n annulment or termination of a promise or an obligation." *Black's Law Dictionary* 219 (8th ed. 2004). An "expiration" is "[a] coming to an end; esp., a formal termination on a closing date <expiration of the insurance policy>." *Id.* at 619. Based upon these definitions, it is apparent that there is a difference between the two terms. An expiration is a termination on a date certain, while a cancellation is a termination prior to the expiration.

Tennessee's insurance statutes generally and Tennessee caselaw support drawing such a distinction. Tennessee Code Ann. § 56-9-308, concerning insurance coverage during liquidation, distinguishes "expiration of the policy coverage" from "[t]he date proposed by the liquidator and approved by the court to cancel coverage." Had the legislature intended that "expiration" mean the same as "cancellation," there would be no need to include both terms. *See also Munford Union Bank v. American Ambassador Cas. Co.*, 15 S.W.3d 448, 452 (Tenn. Ct. App. 1999) (holding that statutes prescribing methods of cancelling insurance policies are not applicable where policies have expired by their own terms).

Because the date that a workers' compensation insurance policy is cancelled is not a "policy expiration date" as contemplated by Tenn. Code Ann. § 50-6-421(b), such information is not subject to inspection under that statute.

ROBERT E. COOPER, JR.
Attorney General and Reporter

JOSEPH F. WHALEN
Associate Solicitor General

ALEXANDER S. RIEGER
Assistant Attorney General

Requested by:

The Honorable Jimmy A. Eldridge
State Representative
208 War Memorial Building
Nashville, Tennessee 37243