

**OP. NO. 03-090**

**COMMONWEALTH PUBLIC SAFETY: LINE OF DUTY ACT.**

**ADMINISTRATION OF GOVERNMENT: DEPARTMENT OF HUMAN RESOURCE MANAGEMENT ¾ STATE OFFICERS AND EMPLOYEES – GENERAL PROVISIONS.**

**Certain individuals entitled to health benefits under Line of Duty Act may receive those benefits through state health benefits program.**

Ms. Sara Redding Wilson  
Director, Department of Human Resource Management  
December 18, 2003

**Issue Presented**

You ask whether certain individuals entitled to receive health benefits under the Line of Duty Act may receive those benefits on the basis of being included in the state and local health benefits programs.

**Response**

It is my opinion that certain individuals entitled to health benefits under the Line of Duty Act may receive those benefits through the state health benefits program.

**Background**

You relate that the Department of Human Resource Management has been asked to include in the state health benefits program certain individuals awarded benefits under the Line of Duty Act. You cite several examples of awards of benefits under the Act.<sup>1</sup> You note that these beneficiaries do not meet the separately established eligibility requirements for participation in the health benefits program.

**Applicable Law and Discussion**

Section 9.1-401(A) of the Line of Duty Act<sup>2</sup> provides that "[t]he surviving spouse and any dependents of a deceased person shall be afforded continued health insurance coverage, the cost of which shall be paid in full out of the general fund of the state treasury." Section 9.1-401(B) provides similar benefits to disabled persons, their surviving spouses, and dependents. Under the Act, the State Comptroller makes the administrative determination of benefit awards or denials,<sup>3</sup> subject to judicial review by aggrieved parties.<sup>4</sup>

Item 277(A) of the 2003 Appropriation Act appropriates funds to pay for "group health insurance ... for the surviving spouses and dependents of certain public safety officer killed in the line of duty and for certain public safety officers disabled in the line of duty."<sup>5</sup>

Section 2.2-2818(A) directs the Department of Human Resource Management to "establish a plan ... for providing health insurance coverage ... for state employees and retired state employees .... The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased."<sup>6</sup>

It is a general rule of statutory construction that the words of a statute are to be given their usual, commonly understood meaning<sup>7</sup>; however, "[w]here the language of a statute is clear and unambiguous rules of statutory construction are not required."<sup>8</sup>

It is well accepted that statutes should not be read in isolation.<sup>9</sup> Statutes relating to the same subject should be considered *in pari materia*.<sup>10</sup> Moreover, statutes dealing with the same subject matter should be construed together to achieve a harmonious result, resolving conflicts to give effect to legislative intent.<sup>11</sup>

In this instance, you describe two distinct statutorily created programs intended to address two different concerns. The Line of Duty Act confers benefits on the survivors of certain enumerated public safety officers killed during the performance of their duties, and extends continued health coverage to public safety officers, and their dependents, who are disabled during the course and scope of employment.<sup>12</sup> Under the Act, public safety officers eligible for benefits are those employed by both state and local entities, and include certain designated volunteers.<sup>13</sup>

Although the Comptroller is directed to make the administrative determination of eligibility for awards of benefits under the Line of Duty Act, the Act provides no direction as to disbursement of the benefits. Rather, the Act merely requires that beneficiaries<sup>14</sup> "shall be afforded continued health insurance coverage, the cost of which shall be paid in full out of the general fund of the state treasury."<sup>15</sup>

The state health benefits program was promulgated pursuant to § 2.2-2818 to provide health insurance coverage to state employee, retired state employees, and the families or dependents of state employees.<sup>16</sup> The Department of Human Resource Management is responsible for the administration of the health benefits program, including the determination of eligibility.<sup>17</sup> Similarly, § 2.2-1204 directs the Department to establish and administer a health plan for employees of local governments, local officers, teachers, retirees, and their dependents.<sup>18</sup>

The Line of Duty Act and the health benefits program are not in conflict. Under the clear and unambiguous language of the Act, the Commonwealth is obligated to provide continued health insurance coverage to the surviving spouse and any dependents of a deceased person covered by the Act, or to a disabled person, his surviving spouse, and any dependents. The appropriations made pursuant to Item 277 of the 2003 Appropriation Act may be used to "purchase" the benefits available from the state health benefits program for those entitled to line of duty coverage. This is consistent with the directive in the Line of Duty Act that "the cost of [such health insurance coverage] shall be paid in full out of the general fund of the state treasury."<sup>19</sup> Therefore, while persons entitled to receive benefits awarded under the Act do not meet the eligibility requirements for participation in the existing state health benefits program, the Commonwealth is obligated to finance the cost of such health insurance and may do so through the state health benefits program or through alternative programs or the open insurance market.<sup>20</sup>

## Conclusion

Accordingly, it is my opinion that certain individuals entitled to health benefits under the Line of Duty Act may receive those benefits through the state health benefits program.

<sup>1</sup>The examples you cite have the common characteristic of an award of benefits under the Line of Duty Act to individuals who are not otherwise eligible for coverage under the state health benefits program.

<sup>2</sup>Va. Code Ann. §§ 9.1-400 to 9.1-406 (LexisNexis Supp. 2003).

<sup>3</sup>Section 9.1-404.

<sup>4</sup>Section 9.1-405.

<sup>5</sup>2003 Va. Acts ch. 1042, at 1733, 2008.

<sup>6</sup>"The [Department of Human Resource Management] is designated as the Governor's agent for developing and administering the Commonwealth's health benefits program for active and retired state employees ... and is required to promulgate rules regarding such program." 1 Va. Admin. Code 55, Agcy. Sum., at 50-52 (West Supp. 2003). The Department has promulgated regulations entitled "Commonwealth of Virginia Health Benefits Program." 1 Va. Admin. Code ch. 20, 55-20-10 to 55-20-480 (Law. Co-op. 1996).

<sup>7</sup>See 1985-1986 Op. Va. Att'y Gen. 24, 25; *id.* at 65, 66; *id.* at 69, 69.

<sup>8</sup>*Ambrogio v. Koontz*, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982).

<sup>9</sup>2B Norman J. Singer, *Sutherland Statutory Construction* § 51.02 (West 6th ed. 2000); Op. Va. Att'y Gen.: 1999 at 22, 22; 1998 at 19, 21; *id.* at 123, 124; 1996 at 197, 198; 1995 at 146, 147; 1993 at 135, 137; *id.* at 160, 162; 1992 at 108, 112.

<sup>10</sup>See *Prillaman v. Commonwealth*, 199 Va. 401, 405-06, 100 S.E.2d 4, 7-8 (1957); 1996 Op. Va. Att'y Gen. 134, 135. "*In pari materia*" is the Latin phrase meaning "[o]n the same subject; relating to the same matter." *Black's Law Dictionary* 794 (7th ed. 1999).

<sup>11</sup>See 2A Singer, *supra* note 9, at § 46:05; 2000 Op. Va. Att'y Gen. 182, 185.

<sup>12</sup>See § 9.1-400 (defining "beneficiary," "deceased person," "disabled person," "line of duty").

<sup>13</sup>See *id.* (defining "deceased person," "disabled person").

<sup>14</sup>"*Beneficiary*' means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate." *Id.*

<sup>15</sup>Section 9.1-401(A).

<sup>16</sup> See cite *supra* note 6.

<sup>17</sup> See Va. Code Ann. § 2.2-2818 (LexisNexis Repl. Vol. 2001).

<sup>18</sup> "The [Department of Human Resource Management] is designated as the Governor's agent for developing and administering the Commonwealth's health benefits program ... for active and retired employees of local constitutional officers, local governments and school boards and is required to promulgate rules regarding such program." 1 Va. Admin. Code 55, Agcy. Sum., *supra* note 6. The Department allows local employers to participate in the state health benefits program. See 1 Va. Admin. Code 55-20-220 to 55-20-310 ("Local Employer Participation").

<sup>19</sup> Section 9.1-401(A).

<sup>20</sup> I comment only on the legal obligation of the Commonwealth to provide health benefits and not on the administrative mechanism by which the Commonwealth satisfies that legal obligation.

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