

# MAINE STATE LEGISLATURE

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May 13, 1954

*no*

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Town Physician of Rumford

This is in response to your memo of May 11, 1954, relative to the Social Security status of the town physician of Rumford.

You state that the physician in question is employed by the Town of Rumford as health officer, town physician and school physician, that he works two days each week in the municipal building for the convenience of town health cases, and that otherwise he adjusts his work as health officer and school physician along with his usual practice. With respect to such physician you ask if he is an employee of the town.

With respect to Social Security laws, the determination as to the employer-employee relationship is decided by the common law rule defining employee. Such common law rule contemplates that the employer shall have complete control over the manner in which the employee carries out his duties.

With respect to the work which the physician does, it would not seem possible that the town could control and supervise the duties and means by which his work is accomplished. This, along with the fact that he works but part time for the town and that only a small portion of his salary would be expected to be received from the town, compels us to the opinion that he would not be an employee of the town but an independent contractor. Therefore deductions should not be taken by the town from his compensation.

We do not quite know the function of this office relative to the giving of opinions on such matters; so it might be well to request a similar opinion of the Social Security agency.

James Glynn Frost  
Deputy Attorney General

jgf/o