

MAINE STATE LEGISLATURE

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May 10, 1976

John P. O'Sullivan, Commissioner

Finance and Administration

Robert J. Stolt, Assistant

Attorney General

Clarification of Certain Maine State Employees' Eligibility to Participate in Health Insurance Programs

This will respond to your memorandum of May 7, 1976, seeking clarification of our opinion of March 1, 1976.

In our March 1, 1976, opinion, we held that "pursuant to 5 M.R.S.A. § 285(1), temporary, project, intermittent and other similar basis State employees are ineligible for accident, sickness and health insurance coverage under the State plan because they are ineligible for membership in the State Retirement System." Our opinion is based on an April 13, 1962, Maine State Retirement System determination to deny the right to become a member of the Retirement System to "persons employed on a per diem basis by the State."

Attached to your May 7 inquiry, I find a memorandum dated April 8, 1976, from W. G. Blodgett, Executive Director of the Maine State Retirement System to Coburn Jackson, Chairman, State Employees Health Insurance Board, entitled, "Membership in the Maine State Retirement System for Per Diem Employees."

In paragraph 4 of that memorandum, Mr. Blodgett says:

"Although temporary, intermittent, part-time or project employees are not required to be members of the Maine State Retirement System, they are not excluded from membership."
(Emphasis supplied)

Mr. Blodgett's memorandum distinguishes between the eligibility of per diem employees and temporary, intermittent, part-time or project employees on the basis and manner of compensation. Because temporary, intermittent, part-time or project employees are paid through normal payroll procedures, hourly or weekly as opposed to per diem, they are not considered per diem employees for the purposes of exclusion from eligibility for membership in the Maine State Retirement System.

Accordingly, because temporary, intermittent, part-time and project employees do not come within the Maine State Retirement System's definition of "per diem basis employees," i.e., an employee paid on a per diem basis usually by way of voucher or expense account procedures and not through normal payroll procedures, we conclude

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that such temporary, intermittent, part-time and project employees are eligible for membership in the Maine State Retirement System and consequently eligible for accident, sickness and health insurance coverage under the State plan. The effect of our March 1, 1976, opinion is superseded by the April 8, 1976, ruling of the Retirement System.

ROBERT J. STOLT
Assistant Attorney General

RJS/ec