

# MAINE STATE LEGISLATURE

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February 27, 1979

TO: Richard A. Dieffenbach, State Controller  
FROM: William C. Nugent, Assistant Attorney General  
RE: Formal Opinion Request for State Employees Health Insurance Board of Trustees

Below please find my response to your memo of February 13, requesting on behalf of the board of trustees of the state employees health insurance program, a formal opinion concerning the question posed below.

Question: Does the board of trustees have authority to modify levels of health insurance coverage independent of the collective bargaining process?

Answer: Yes.

Reason: The section of the State Employees Labor Relations Act which delineates those matters appropriate for the collective bargaining process is found at 22 MRSA §979-D (1)(E)(1). It reads as follows:

All matters relating to the relationship between employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law. (Emphasis added)

5 MRSA §285(2) establishes the state employees health insurance board, and states, inter alia, that, "The provisions of such group insurance policy or policies shall be determined by ... [the] ... board of trustees ..." Insurance coverage levels clearly qualify as policy "provisions" within the meaning of the statute.

Since the statutory power of setting insurance coverage levels rests with the board of trustees, it is a matter "controlled ... by state law" within the meaning of 26 MRSA §979-D(1)(E)(1). Therefore, the level of health insurance coverage is not subject to the collective

bargaining process.

This position is further reinforced by several other facts. The State Employees Labor Relations Act was passed six years after the establishment of the health insurance board of trustees. The act's legislative history contains no evidence that the legislature intended to make insurance coverage levels subject to the collective bargaining process. In addition, §285(2) requires that two board members be appointed by the Maine State Employees Association, thereby assuring the input of organized labor in the board's decisions concerning insurance coverage.

WCN:lw