

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

April 4, 1983

Jo Gill, Executive Director
Maine State Employees Health Insurance Program
State House
Augusta, Maine 04333

Dear Jo:

You have requested an opinion on the question of whether a former teacher who is now receiving a retirement allowance under the Maine State Retirement System and who is also now serving in the Maine State Legislature is entitled to be covered under the State group health insurance program established under 5 M.R.S.A. § 285 et seq. This office concludes that this question must be answered in the affirmative.

5 M.R.S.A. § 285, the statute establishing a group health insurance program for State employees, provides, in pertinent part, as follows:

Each appointed or elected officer or employee of the State of Maine who is eligible for membership in the Maine State Retirement System. . . shall come within the purview of this section. . . .

Under this statutory language, the question is whether the legislator in question is "eligible for membership in the Maine State Retirement System. . . ." This office concludes that he is.

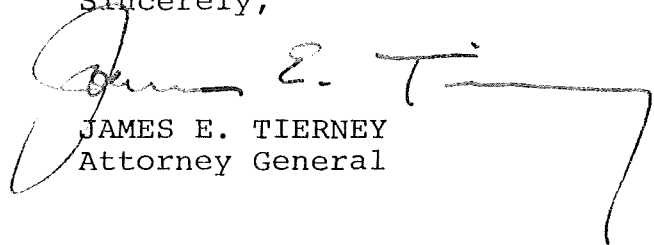
Legislators are generally eligible for membership in the Maine State Retirement System as elected officials. 5 M.R.S.A. § 1091(1). 5 M.R.S.A. § 1123 excepts legislators from the earnings limitations imposed on other State retirees who return to State service so that legislators who are retirees under the Maine State Retirement System may continue to receive their retirement allowances while they serve in the Legislature. As Section 1123 has been historically interpreted, however, these legislators are not permitted

to rejoin the System as legislators unless they give up their retirement benefits. The person in question has not given up his retirement benefits and has not rejoined the System. The question presented is whether, under these circumstances, he is "eligible for membership" in the System under § 285.

5 M.R.S.A. § 285 does not appear to require State employees to be members of the Maine State Retirement System in order to be covered by group health insurance. It requires only that they be "eligible for membership in the Maine State Retirement System. . . 1/ Eligibility, as a general concept, obviously means something different from actual membership or participation. "Eligible" is defined in Webster's Seventh New Collegiate Dictionary as "qualified to be chosen." Webster's Seventh New Collegiate Dictionary at 268. The legislator in question could rejoin the Maine State Retirement System and build up a second retirement allowance if he gave up his present retirement allowance. This office therefore concludes that he is eligible for membership in the Maine State Retirement System for purposes of § 285 and may therefore be covered under the State's group health insurance program.

If you have any further questions, please do not hesitate to call upon this office.

Sincerely,



JAMES E. TIERNEY
Attorney General

JET/ec

cc: Rep. Dana Stevenson
Sen. Thomas Teague
Rep. Norman Walker
Sen. Charles Dow, Senate Chairman, Joint Standing Committee
on Aging, Retirement and Veterans
Rep. Daniel Hickey, House Chairman, Joint Standing Committee
on Aging, Retirement and Veterans
Roberta Weil, Executive Director, Maine State Retirement System

1/ There is no relevant legislative history as to this provision.