

State of Connecticut



Hartford

THOMAS R. SULLIVAN
INSURANCE COMMISSIONER

P. O. BOX 816
HARTFORD, CT 06142-0816

December 3, 2007

The Honorable Richard Blumenthal
Attorney General
State of Connecticut
55 Elm Street
Hartford, CT 06103

Dear Attorney General Blumenthal:

This letter is in response to your November 28, 2007 letter in which you affirmed your formal legal opinion issued to Comptroller Nancy Wyman on July 25, 2007 (Attorney General Opinion 2007-12) that Conn. Gen. Stat. §5-259(i) authorized the Comptroller to establish a voluntary, risk pooled, self-funded health plan for municipal employers and employees and that municipalities participating in such an arrangement would not be considered unauthorized insurers.

I want to advise you that, while I disagree with your interpretation, the Insurance Department ("Department") will abide by your opinion and will rescind the notice that the Department issued on November 19, 2007 to all insurance companies and other potential responders to the Request for Proposals issued by the Comptroller. Attached is a copy of the Notice of Rescission for your information.

Also enclosed for your information are letters we are submitting to the Office of Policy and Management, the Insurance and Real Estate Committee and the Appropriations Committee of the General Assembly regarding the implications of this determination.

Sincerely,

A handwritten signature in black ink that reads "Thomas R. Sullivan". The signature is written in a cursive, flowing style.

Thomas R. Sullivan
Commissioner

Enclosures

State of Connecticut



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THOMAS R. SULLIVAN
INSURANCE COMMISSIONER

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December 3, 2007

The Honorable Joseph Crisco
The Honorable Brian O'Connor
The Honorable Kevin Witkos
Connecticut General Assembly
Insurance and Real Estate Committee
Room 2800
Legislative Office Building
Hartford, CT 06106

Re: Attorney General Opinion 2007-12

Dear Senator Crisco, Representative O'Connor and Witkos:

As you may be aware, Attorney General Blumenthal issued, on July 25, 2007, Attorney General Opinion 2007-12 ("Opinion") advising Comptroller Nancy Wyman ("Comptroller") on her ability to offer the Municipal Employees Health Insurance Plan ("MEHIP") on a self-insured basis pursuant to Conn. Gen. Stat. §5-259. The Opinion concluded that "the proposed plan is authorized by Conn. Gen. Stat. §5-259(i) and is not subject to the state's insurance laws". On November 19, 2007, I issued a letter to the Attorney General expressing my concerns with his legal analysis and requested reconsideration of his opinion. On November 28, 2007, the Attorney General issued a letter in which he affirmed his July 25, 2007 opinion that Conn. Gen. Stat. §5-259(i) authorized the Comptroller to establish a voluntary, risk pooled, self-funded health plan for municipal employers and employees and that municipalities participating in such an arrangement would not be considered unauthorized insurers.

I want to advise you that, while I have continuing concerns regarding the Attorney General's determination that Conn. Gen. Stat. §5-259(i) does not require the Insurance Department's approval for the MEHIP and does not subject

the MEHIP to Insurance Department oversight¹, the Insurance Department (“Department”) will abide with the opinion of the Attorney General and will immediately refrain from any current or future regulatory activities relating to the MEHIP. Therefore, I have directed my staff to immediately cease any oversight activities related to the MEHIP. In light of this, I want to make you aware of the potential implications arising from this change to our oversight authority.

While I have directed my staff to review all current laws to determine the full measure of this change, there are a number of implications resulting from the barring of the Insurance Department from regulatory involvement in the MEHIP that immediately come to mind and for which I believe you need to be aware. These include, but are not limited to the following:

Eliminated Oversight Activity	Implication
Consumer Complaint Servicing	<ul style="list-style-type: none">• Lacking enforcement authority to affect corrective actions, the Insurance Department will no longer handle consumer complaints related to the MEHIP
Financial Solvency Monitoring	<ul style="list-style-type: none">• No independent monitoring of financial adequacy of financial funding and reserving potentially leaving the state in a precarious financial situation.• No independent and transparent oversight of expense allocations• No independent monitoring of plan governance
Rate Approval	<ul style="list-style-type: none">• No independent determination as to adequacy of plan rates
Form Approval	<ul style="list-style-type: none">• No verification that plans conform to benefit plan policy requirements of the legislature
Financial and Market Conduct Examinations	<ul style="list-style-type: none">• Examinations of licensed carriers which participate will not include

¹ See November 28, 2007 letter, page 4

which participate will not include
MEHIP components

External Review Process

- Separate external review process needs to be established to handle questions of medical necessity in claim processing

In addition, there is an overarching question that I believe only you as the policy making body can address. Specifically, do insurance laws and regulations apply to the MEHIP? If they do not, which consumer and financial solvency protections apply to those participating in the MEHIP? If they do, and the Insurance Department no longer oversees and enforces the insurance laws and regulations as they apply to the MEHIP, who does? Has a dual regulatory oversight entity been created by virtue of an Opinion of the Attorney General? That is, the Comptroller's Office and the Insurance Department will be regulating the same entities with no consistency, which will have significant marketplace implications.

In closing, the Insurance Department will abide the Attorney General's decision. However, I believe that the regulatory and marketplace implications are far reaching and rest within the General Assembly's policymaking authority.

I will be happy to discuss this with you at your convenience.

Sincerely,



Thomas R. Sullivan
Insurance Commissioner

Enclosure

Cc: The Honorable M. Jodi Rell, Governor

State of Connecticut



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THOMAS R. SULLIVAN
INSURANCE COMMISSIONER

P. O. BOX 816
HARTFORD, CT 06142-0816

December 3, 2007

The Honorable Toni Nathaniel Harp
The Honorable Denise W. Merrill
The Honorable David J. Cappiello
The Honorable Kevin L. DelGobbo
Connecticut General Assembly
Appropriations Committee
Room 2700
Legislative Office Building
Hartford, CT 06106

Re: Attorney General Opinion 2007-12

Dear Senators Harp and Cappiello and Representatives Merrill and DelGobbo:

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require the Insurance Department's approval for the MEHIP and does not subject the MEHIP to Insurance Department oversight¹, the Insurance Department ("Department") will abide with the opinion of the Attorney General and will immediately refrain from any current or future regulatory activities relating to the MEHIP. Therefore, I have directed my staff to immediately cease any oversight activities related to the MEHIP. In light of this, I want to make you aware of the potential implications arising from this change to our oversight authority.

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¹ See November 28, 2007 letter, page 4

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In closing, the Insurance Department will abide the Attorney General's decision. However, I believe that the regulatory and marketplace implications are far reaching and rest within the General Assembly's policymaking authority.

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Thomas R. Sullivan
Insurance Commissioner

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Cc: The Honorable M. Jodi Rell, Governor

State of Connecticut



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Hartford

December 3, 2007

The Honorable Robert L. Genuario
Secretary
Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106-1379

Re: Attorney General Opinion 2007-12

Dear Secretary Genuario:

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External Review Process	<ul style="list-style-type: none">• Separate external review process

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