

ATTORNEY GENERAL

November 6, 1981

WILLIAM J. JOSEPH, *Director*
Division of Pensions
20 West Front Street
Trenton, New Jersey

FORMAL OPINION NO. 8—1981

Dear Director Joseph:

You have asked for our advice as to whether the State Health Benefits Commission is required to extend an increased level of reimbursement under the Blue Shield benefits formula to all local participating employers and to their employees. This increased level of reimbursement is commonly known as the 1420 Series which the State has determined to provide to its employees. The occasion for your inquiry is the recently negotiated agreement between the State and its unions. It is provided therein, among other things, that the State shall provide the 1420 Series Blue Shield benefits for its employees. We are informed that the Health Benefits Commission has determined, or will soon determine, to implement the terms of the collective negotiations agreement and to provide those benefits to all state employees effective January 1, 1982. For the following reasons, it is our opinion that under the governing statutory framework, the Health Benefits Commission is required to extend this level of reimbursement under Blue Shield to all participating local employers and their employees.

At the outset, in order to understand the State Health Benefits Act as it applies to both the State and to participating employers, it is necessary to outline the basic statutory framework. In 1961, the legislature enacted the State Health Benefits Act and defined an eligible employee to mean a full time employee of the State of New Jersey. N.J.S.A. 52:14-17.25, 26. A State Health Benefits Commission was created consisting of the Treasurer, Commissioner of Banking and Insurance and the President of the Civil Service Commission, to administer the terms of the Act and to negotiate and arrange for the purchase of contracts from licensed carriers providing hospital and medical expense benefits covering employees of the State and their dependents. The Commission's discretion to purchase contracts was qualified by the proviso that the health benefits provided equal or exceed certain minimum standards specified in the Act, and more importantly that such "coverage is available to all eligible employees and their dependents. . . ." N.J.S.A. 52:14-17.28. In 1964 the legislature extended the State Health Benefits Act to include participation by counties, municipalities, public agencies and school districts. N.J.S.A. 52:14-17.34. Acting thereunder, participating public employers may, and a substantial number have, purchased coverage for their employees through the State Health Benefits Commission.

In light of this statutory backdrop, it is appropriate to deal with the specific issue posed, i.e., whether the Commission is obligated to extend the increased level of reimbursement provided to state employees to all of those participating employers and their employees. Critical to this issue are the following provisions. N.J.S.A. 52:14-17.28 enacted as part of the 1961 statute first made applicable to state employees provides that:

FORMAL OPINION

The Commission shall not enter into a contract under this act unless the benefits provided thereunder equal or exceed the minimum standards specified in section 5 [52:14-17.29] for the particular coverage which such contract provides; and unless coverage is *available to all eligible employees* and their dependents on the basis specified by section 7. [Emphasis supplied.]

Also pertinent to this issue is N.J.S.A. 52:14-17.36 enacted as part of the 1964 supplement to the act which provides:

All provisions of that act will, except as expressly stated herein, be construed as to participating employers and to their employees and to dependents of such employees the same as for the state, employees of the state and dependents of such employees.

These two statutory provisions evidence a legislative interest in assuring equality of treatment for all public employees. The Commission may not enter into a contract unless coverage is available to all eligible employees and their dependents. Further, that statutory mandate on the exercise of the Commission's discretion must be construed by the terms of the 1964 supplement to now extend to participating local employers and to their employees in the same manner as for the employees of the state. It follows, therefore, that in the event the State determines to provide for an increased level of reimbursement for state employees, it is required in the exercise of this discretion to make that level of reimbursement available to all local participating employers in the same manner as it has for the State and its employees.

This view is supported by the legislative history. Senate Bill No. 46 (1963) was introduced to provide for the extension of the Health Benefits Act to local political subdivisions.* The statement on the bill provided that municipalities, counties and school districts could join the Health Benefits Program and obtain the same benefits as were then provided to state employees. Moreover, we have been informed that it has been the administrative practice of the State Health Benefits Commission during the past 17 years to extend to local employers and their employees the same hospital, medical and surgical benefits as have been provided to state employees. A long-standing administrative practice for a period of several years without any legislative interference is entitled to great weight as to the probable legislative intent. *Radiological Society of New Jersey v. Sheeran*, 175 N.J. Super. 367, 379 (App. Div. 1980).

This conclusion is also reinforced by a separate statutory section designed to encourage equality of treatment and health benefits for all public employees both at the State and local levels. N.J.S.A. 40A:10-25 provides that it shall be the duty of any public employer who enters into

* Senate Bill No. 46 was conditionally vetoed by Governor Hughes for its failure to separate the claims experience for the State and local groups. Senate Bill No. 314 was introduced as a replacement for Senate Bill No. 46 and after providing for separation of claims experience for State and local employers was enacted substantially as originally proposed in Senate Bill No. 46.

ATTORNEY GENERAL

a group insurance health contract on behalf of its employees to file a copy with the State Health Benefits Commission. It also directs that the Commission report not less than every two years to the Governor and the legislature as to these contracts:

and shall make such recommendations concerning the contracts and the coverage thereunder as it deems appropriate *to achieve uniformity of coverage and benefits for employees throughout the state.* [Emphasis supplied.]

For these reasons, it is our judgment that the overall statutory framework evinces both an express and implicit legislative intent to insure equality of benefits between both state and local employees under the program administered by State Health Benefits Commission. Consequently, in the event the Commission determines to provide for an increased level of reimbursement under Blue Shield (Series 1420) to state employees it is required to extend that same level of reimbursement in those contracts purchased by it on behalf of all local participating employers.

Very truly yours,
JUDITH A. YASKIN
Acting Attorney General

By: THEODORE A. WINARD
Assistant Attorney General

December 24, 1981

MARTIN B. DANZIGER, *Acting Chairman*
Casino Control Commission
3131 Princeton Pike
Trenton, New Jersey 08625

FORMAL OPINION NO. 9—1981

Dear Chairman Danziger:

You have requested our opinion as to the legality of a proposed craps tournament to be held at Resorts International Casino. For the following reasons, it is our opinion that a proposed craps tournament would be in violation of the Penal Code's prohibition against gambling when an entry fee is charged as a condition of participation in the tournament.

We have been informed that upon payment of an entry fee of approximately \$250 any person may participate in the tournament. Participants are required to buy into the tournament by purchasing approximately \$750 in special tournament chips which can only be used in the tournament. Participants draw for numbered positions at the craps tables and at the end of the first round of tournament play, two players at each table with the highest amount of money advance to the second round. At the end of the second round, the one player with the highest amount of money