

Note from the Attorney General's Office:

1969 Op. Att'y Gen. No. 69-046 was modified in other respects by legislative amendments, including 1970 Am.Sub.S.B. No. 522, 133 Ohio Laws, 1447, 1448-1449, effective Sept. 14, 1970, (eliminating requirement that all health insurance be group insurance) and 1999 Am.Sub.H.B. No. 187, 148 Ohio Laws, Part I, 1213, 1239, effective Sept. 20, 1999 (authorizing purchase of group life insurance by board of township trustees under R.C. 505.602))

OPINION NO. 69-046

Syllabus:

1. A board of township trustees may, pursuant to Section 505.60, Revised Code, purchase hospitalization, surgical, major medical or sickness and accident insurance or any combination thereof for township officers and employees and their immediate dependents on a group basis only.
2. When a board of township trustees purchases group insurance in accordance with Section 505.60, Revised Code, the word "group" refers to the township officers and employees and their immediate dependents.
3. Section 505.60, Revised Code, does not authorize the purchase of life insurance by a board of township trustees, however, the inclusion of an accidental death benefit in a sickness and accident policy does not make the policy one of life insurance. Further, a fixed monthly total disability accident indemnity, a fixed monthly partial disability accident indemnity, a fixed monthly total disability and confinement sickness indemnity, or a fixed monthly total disability and non-confinement sickness indemnity are permissible sickness and accident insurance benefits which may be included in a plan purchased by township trustees pursuant to Section 505.60, Revised Code.
4. Disability insurance covering "loss of time" due to a disability is authorized under the provisions of Section 505.60, Revised Code.

To: Roger Cloud, Auditor of State, Columbus, Ohio
By: Paul W. Brown, Attorney General, May 16, 1969

Before me is your request for my opinion which raises several questions concerning the construction and interpretation of Section 505.60, Revised Code, which provides as follows:

"The board of township trustees of any township may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for township officers and employees and their immediate dependents, whether issued by an insurance company or a hospital service association duly authorized to do business in this state."

Your questions will be considered in the order set forth in the request.

"1. If the township elects to purchase insurance under the provisions of the above statute, is the township limited to purchasing group insurance for hospitalization, surgical, major medical, or sickness and accident insurance, or may the word 'group' as used in section 505.60, Revised Code,

be interpreted to modify only the word 'hospitalization,' so that, as for example, the sickness and accident policy purchased need not be a group sickness and accident policy?"

In my opinion a township may only purchase the enumerated coverages or combinations thereof on a group basis. Each of the coverages set forth are available on a group basis or group plan. Group insurance is a multi-party contract involving the insurer, an employer or analogous person, the insured and the beneficiaries. (See Section 3917.01, et seq., Revised Code, relating to life insurance and Section 3923.12, Revised Code, *infra*, relating to sickness and accident insurance.) Thus the word "group" when used to describe insurance has a special or significant meaning. The legislature is presumed to have used the word "group" in the technical or special sense when there is no indication that another meaning was intended. (See 50 O. Jur. 2d Statutes, p. 180, Sec. 201.) Therefore, as used in Section 505.60, *supra*, it permits a township to purchase the named coverages on a group basis only.

"2. In either event, if group insurance is purchased by the township for the officers and employees of the township and their immediate dependents, may the group for which the insurance premium is paid consist of (a) only the township officers and employees and their immediate dependents, or may the group consist of (b) the Ohio State Association of Township Trustees and Clerks, or (c) any group of which the officer or employee of the township is a member such as the employees of the plant at which the officer or employee is also employed?"

It appears clear that the "group" in Section 505.60, *supra*, means the township officers and employees. This is the traditional employer-employee "group" as authorized, defined and provided for in Section 3923.12 (A) (1), Revised Code, as follows:

"(A) Group sickness and accident insurance is that form of sickness and accident insurance covering groups of persons, with or without one or more of their dependents and members of their immediate families, and issued upon one of the following bases:

"(1) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least ten employees of such employer, for the benefit of persons other than the employer;

* * * * *

"(B) As used in this section:

"(1) 'Employees' includes the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of indi-

viduals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise.

"(2) 'Employer' includes any municipal or governmental corporation, unit, agency, or department thereof, as well as private individuals, partnerships, and corporations."

It is obvious that the legislature intended to make a fringe benefit available to township officers and employees. Amended Substitute House Bill No. 586 (132 Ohio Laws, S 586), effective November 24, 1967, states the purpose of Section 505.60, supra, as follows:

"* * * to permit boards of * * * township trustees * * * to pay all or part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or any combination thereof for * * * township officers and employees * * * and their dependents."

(Emphasis added)

In the furtherance of this purpose, it is my opinion that the "group" must consist of a township's officers and employees. This interpretation provides the most direct way of accomplishing the legislative purpose, i.e., to make available fringe benefits for officers and employees.

"3. If it is possible to purchase group insurance with the Ohio State Association as a group, in addition to the premium paid to the insurance company, may the township pay to the secretary of the county chapter of the association a certain sum of money as compensation to cover the cost of collecting and forwarding the premiums from the various townships whose officers are members of the county chapter of the Ohio Association of Township Trustees and Clerks, as well as postage and other related costs?"

My answer to question two (2) above makes consideration of this question unnecessary.

"4. May the policy of insurance purchased include an accidental death benefit, or does such a benefit convert the policy into a policy of life insurance, and if so, would this be a type of insurance for which provision is not made under section 505.60 of the Revised Code? If it can be assumed that a township is not authorized by section 505.60, R.C., to purchase life insurance, may a sickness and accident policy provide for one or more of the following for a period of time limited as to each in the policy: (1) a fixed monthly total disability accident indemnity, (2) a fixed monthly partial disability accident indemnity, (3) a fixed monthly total disability and confinement sickness indemnity, (4) a fixed monthly total disability and non-confinement sick-

ness indemnity. If life insurance may not be purchased under the terms of section 505.60 of the Revised Code, how is it possible to determine that the sickness and accident insurance policy purchased is not a life insurance policy with sickness and accident benefits?"

Section 505.60, supra, does not authorize the purchase of life insurance. The inclusion of an accidental death benefit in a sickness and accident policy does not make the policy one of life insurance. On the contrary, Section 3923.01, Revised Code, provides as follows:

"As used in sections 3923.01 to 3923.22, inclusive, of the Revised Code, 'policy of sickness and accident insurance' includes any policy or contract of insurance against loss or expense resulting from the sickness of the insured, or from the bodily injury or death of the insured by accident, or both."
(Emphasis added)

Thus it is clear that a contract or provision providing a benefit for death by accident is sickness and accident insurance.

The benefits enumerated in question four, namely;

- (1) a fixed monthly total disability accident indemnity,
- (2) a fixed monthly partial disability accident indemnity,
- (3) a fixed monthly total disability and confinement sickness indemnity,
- (4) a fixed monthly total disability and non-confinement sickness indemnity

are permissible sickness and accident insurance benefits and any or all of them could be included or provided in a plan purchased by township trustees pursuant to Section 505.60, supra.

If a policy purports to insure a life or the lives of persons within the group other than for accidental death, such insurance is life insurance. The fact that the company issuing the policy is a life insurance company is not controlling because many life companies write sickness and accident insurance. The policy provisions control. If you have any doubts you should contact the Department of Insurance which has the policy forms on file.

"5. May disability insurance covering loss of income as well as hospital, medical and gap filler medicare coverage be purchased under the provisions of Section 505.60 of the Revised Code?"

If by "loss of income" you mean loss of time due to a disability, such coverage is authorized as noted in my answer to question four (4) above. If you mean insurance against a loss of income due to labor disputes, job interruption, dismissal or similar causes, it is my opinion that such insurance is not a permissible purchase under Section 505.60, supra, because there is no provision therefor.

Therefore, it is my opinion and you are hereby advised that:

1. A board of township trustees may, pursuant to Section 505.60, Revised Code, purchase hospitalization, surgical, major medical or sickness and accident insurance or any combination thereof for township officers and employees and their immediate dependents on a group basis only.

2. When a board of township trustees purchases group insurance in accordance with Section 505.60, Revised Code, the word "group" refers to the township officers and employees and their immediate dependents.

3. Section 505.60, Revised Code, does not authorize the purchase of life insurance by a board of township trustees, however, the inclusion of an accidental death benefit in a sickness and accident policy does not make the policy one of life insurance. Further, a fixed monthly total disability accident indemnity, a fixed monthly partial disability accident indemnity, a fixed monthly total disability and confinement sickness indemnity, or a fixed monthly total disability and non-confinement sickness indemnity are permissible sickness and accident insurance benefits which may be included in a plan purchased by township trustees pursuant to Section 505.60, Revised Code.

4. Disability insurance covering "loss of time" due to a disability is authorized under the provisions of Section 505.60, Revised Code.