

August 24, 2006
OPINION NUMBER 05-0269

Sheriff Michael W. Neustrom
Lafayette Parish Sheriff's Office
P.O. Drawer 3508
Lafayette, Louisiana 70502

54 – INSURANCE
107 – SHERIFFS
LSA-R.S. 33:1448

Pertains to the liability of sheriff's offices for the payment of group health and life insurance coverage on behalf of personnel who have retired or separated from service.

Dear Sheriff Neustrom:

You have presented three issues for our review pertaining to the provisions of LSA-R.S. 33:1448 and the liability of certain sheriffs, including the Lafayette Parish Sheriff, for the payment of group health and life insurance coverage on behalf of personnel who have retired or separated from service. The specific questions you have presented are:

1. "Deputy worked for Sheriff, left and took out retirement funds (let's say he worked 10 years). Later, he returns to Sheriff's Office and completes 5 years of service. Does he now become eligible for group health benefits and life insurance coverage as a 15 year retiree?"
2. "Deputy works for one Sheriff's office and leaves with 18 years of service, goes to work for another Sheriff for additional 5 years, which Sheriff's Office is responsible for his group insurance coverage and life insurance?"
3. "Deputy works for one Sheriff's office and leaves with 11 years of service, later goes to another Sheriff's Office and puts in 4 years of service, which office is responsible to provide the insurance benefits?"

With respect to your questions, LSA-R.S. 33:1448 pertinently provides:

"A. Sheriffs and deputy sheriffs shall be insured under a policy or policies, of group life, health, accident, accidental death and dismemberment, hospital, surgical or medical expense insurance as may be contracted for by the officers of the Louisiana Sheriffs' Association...

* * *

C. (2) Notwithstanding the provisions of Subsection A of this Section, *the sheriff and deputy sheriffs of each parish of the state may elect group life,*

health, accident, accidental death and dismemberment, hospital, surgical, or medical expense insurance either under the policy or policies or self-insurance plan contracted for by the officers of the Louisiana Sheriffs' Association or under a group policy or policies or self-insurance plan contracted for by the sheriff or the parish. Any group policy contracted for by a sheriff under authority of this Subsection shall be with an insurer authorized to do business in this state...

* * *

D. *Any policy or self-insurance plan providing group hospital, surgical, medical expense, or life insurance contracted for under the provisions of this Section shall contain a provision authorizing any covered employee retiring under his sheriff's department retirement plan to elect to continue such coverage upon retirement. The premium cost of such coverage may be paid in full or in part from the sheriff's general funds or by the retired employee. A uniform policy with respect to the payment of such premiums shall be formulated and applied by each sheriff.*

* * *

G. *Notwithstanding the provisions of Subsection D of this Section, the premium costs of group hospital, surgical, medical expense, and dental insurance and the first ten thousand dollars of life insurance contracted under the provisions of this Section shall be paid in full from the sheriff's general fund for all sheriffs and deputy sheriffs retired with at least fifteen years of service who are at least fifty-five years of age or retired with at least thirty years of service at any age. The provisions of this Subsection shall be applicable only to the sheriffs' offices of the parishes of ...Lafayette...for their respective retirees." (Emphasis supplied).*

We note that an examination of the issues presented by your request is somewhat complicated by the fact that sheriffs and their deputies can accrue eligibility in the Sheriff's Pension and Relief Fund, the retirement system which provides coverage to the sheriffs and deputies of all of the parishes of this state, based upon service to any, or a number of different, sheriff's offices. Thus, a deputy can be considered as having "retired", based upon his eligibility to receive benefits from the Sheriff's Pension and Relief Fund, even if he had been employed by a particular sheriff's office for only a very few months or years.

In our opinion, when the provisions of LSA-R.S. 33:1448 are read and interpreted as a whole, and the subsections thereof are read in relation to each other, the provisions must be interpreted as extending eligibility for paid health and life coverage (i.e. paid by a particular sheriff's office) to any sheriffs and deputies who are eligible for and who actually retire from a particular sheriff's office. As we interpret the quoted provisions of LSA-R.S. 33:1448, a deputy must actually be retiring by beginning to receive benefits

from the Sheriff's Pension and Relief Fund, i.e. "his sheriff's department retirement plan" (LSA-R.S. 33:1448D) in order to be entitled to receive paid health and life insurance benefits.¹

It is our further opinion that, generally, in order to be eligible for paid health and life coverage upon retirement, a sheriff or deputy may have fifteen years of service (LSA-R.S. 33:1448G) with a particular sheriff's office, or a total of fifteen years of service with multiple sheriff's offices, upon his separation from service in order to be entitled to receive payment from the sheriff's office for his health and life insurance while in retirement.² In other words, it is our opinion that eligibility to receive paid health and life insurance from a particular sheriff's office can be based in part upon length of service to a different sheriff's office. In our opinion, LSA-R.S. 33:1448 must be interpreted as requiring an employer, whether sheriff or otherwise, to extend lifetime health and life insurance coverage to its retirees based upon the employee's having retired from that particular sheriff's office, notwithstanding the fact that the employee became eligible for retirement based in part upon length of service to a different sheriff's office.

Based upon the foregoing, in response to your first question, it is the opinion of this office that in light of the deputy in question's withdrawal of a substantial portion of his retirement funds, he cannot be considered as "retiring under his sheriff's department retirement plan" as is required by the above-quoted provisions of LSA-R.S. 33:1448. Although the deputy in question has fifteen years of service with a sheriff's office, and assuming he is at least fifty-five years of age, he is not, in our opinion, entitled to paid health and life insurance after separation from service with the Lafayette Sheriff because he will not be "retiring under his sheriff's department retirement plan" (LSA-R.S. 33:1448D).

In response to your second question, it is the opinion of this office that a deputy who works for one Sheriff's office, leaves after 18 years of service, and then goes to work for another Sheriff for an additional 5 years would be entitled to obtain payment of his health and life insurance, post-retirement, from his second employer/sheriff. As noted above, it is our opinion that LSA-R.S. 33:1448G must be interpreted as requiring an

¹ It should be noted that it is not our opinion that the receipt of retirement benefits from the Sheriff's Pension and Relief Fund must begin simultaneously with separation from service. A deputy could separate from service from a sheriff's office after having been employed there for 15 years but prior to reaching the required age of fifty-five. As long as such a deputy remained "covered" under his sheriff's health and life insurance in accordance with LSA-R.S. 33:1448D (pursuant to payments made by that sheriff's office, by making payments himself if allowed to do so, or by virtue of the payments being made by a subsequent employer providing coverage under the same plan) after the time he separates from service and until reaching fifty-five, the deputy could, in our opinion, elect to "continue such coverage upon retirement" and would be entitled to paid health and life insurance coverage from his former sheriff/employer.

² Please note that the R.S. 33:1448 provides that, in order to be eligible for paid health and life coverage upon retirement from the sheriffs' offices in Ouachita, Terrebonne, Plaquemines, St. Charles, St. Landry, Lafourche and Richland parishes, the sheriff or deputy must have provided a specified number of years of service with that particular sheriff's office. See R.S. 33:1448 sections I, L, N, O, P, Q and R. In these parishes, years of service with a separate sheriff's office will not count toward the years required to be served with the particular sheriff's office in question.

employer, sheriff or otherwise, to extend lifetime health and life insurance coverage to its retirees based upon that employee's years of service to a former employer. In order to be eligible for coverage from a sheriff's office post-retirement, it is our opinion that a deputy would have to have provided a total of fifteen years of service, either with a particular sheriff's office, or with multiple sheriffs' offices.³

In response to your third question, it is our opinion that a deputy who has worked for one sheriff's office and leaves after 11 years of service and is later employed by another sheriff's office for 4 years would be entitled to paid health or life insurance coverage during his retirement from the second sheriff's office, as the deputy in question has provided a total of fifteen years of service. As previously noted, it is our opinion that in order to be eligible for paid health and life coverage upon retirement, a sheriff or deputy must have fifteen years of service (LSA-R.S. 33:1448G) either with a particular sheriff's office, or with multiple sheriffs' offices, in order to be entitled to receive payment from that sheriff's office for his health and life insurance while in retirement.⁴

We trust the foregoing to be of assistance. Please do not hesitate to contact us if we can be of help to you in other areas of the law.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/jv

xc: Rene P. Judice, III

³ Note that this opinion is not applicable to sheriffs or deputies retiring from the sheriffs' offices in Ouachita, Terrebonne, Plaquemines, St. Charles, St. Landry, Lafourche and Richland parishes. See Footnote 2.

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Syllabus

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KENNETH L. ROCHE, III
ASSISTANT ATTORNEY GENERAL