



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
201 EAST MARKHAM STREET
HERITAGE WEST BUILDING
LITTLE ROCK, ARKANSAS 72201

(501) 371-2007

OPINION NO. 86-315

August 18, 1986

Colonel Tommy L. Goodwin, Director
Arkansas State Police
No. 3 Natural Resources Drive
P.O. Box 5901
Little Rock, AR 72215

Re: Act 951 of 1985; Health Benefits for Surviving
Spouses of Former State Police

Dear Colonel Goodwin:

This is in response to your request for an official
opinion on the following questions:

1. Can the surviving spouse of a member
who retired prior to his or her death
participate in the health benefit
program as established under the
authority of Act 951 of 1985?
2. Can the surviving spouse of a member
who died while an active uniformed
employee continue coverage under the
health benefit program?

In response to question No. 1, it is my opinion that the
surviving spouse of a State Police Officer who retired and
then deceased after July 1, 1985, the effective date of Act
951 of 1985, is entitled to participate in the health
benefit program as established under the authority of Act
951 of 1985. This is provided for in Section 3 of the Act
which is codified under Ark. Stat. Ann. §42-434.2 which
reads as follows:

Members of the Department of Arkansas
State Police who hereinafter retire and
receive retirement benefits under the
State Police Retirement System, shall be
eligible to participate in the group
health self-insurance program

established by the Arkansas State Police Commission for uniformed personnel, and for their wives and/or dependents, in the same manner and under the same conditions as provides in Section 13 of Act 48 of 1972 Special Session of the General Assembly, which authorizes retired state employees receiving retirement benefits under the Public Employees Retirement to participate in the State Employees' Hospitalization and Medical Insurance Program.

Therefore, Act 951 of 1985 provides that the surviving spouse of a State Police Officer who retired before July 1, 1985 is eligible to participate in the group health insurance program if that retired police officer exercised his option to participate in the group health insurance program within 90 days after July 1, 1985. Furthermore, surviving spouses of State Police who retired after July 1, 1985 are eligible to participate in the group health insurance program.

In response to question No. 2, concerning surviving spouses of state police officers who die on active duty before retirement, it is my opinion that it is up to the Arkansas State Commission to decide whether or not such benefits should be extended to these particular surviving spouses. It does not seem that this is a question of law, but instead a question of policy to be determined by the State Police Commission.

Act 951 of 1985 gives the State Police Commission the authority to establish a self-insured group health program. That Act also gives discretion to the State Police Commission to promulgate rules and policies concerning that health insurance program. That portion of the Act, which is codified as Ark. Stat. Ann. §42-434.1, provides that:

In the event the Department of Arkansas State Police, acting pursuant to a resolution adopted by the Arkansas State Police Commission therefore, exercises the option to establish a self-insurance program to provide hospitalization and medical services coverage for uniformed employees of the Department and for the wives and/or dependants of uniformed personnel of the Department, as authorized in this Act [Sections 42-434, 42-434.1, and 42-434.2], such self-insurance programs shall be operated in accordance with policies, rules,

procedures, and benefits proscribed by
the Arkansas State Police Commission.

It seems clear then that the Arkansas State Police Commission has the authority and the discretion to decide what benefits ought to be accorded to its members and to also establish policies, procedures and guidelines for determining eligibility of surviving spouses for benefits under the group insurance program.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Jerome T. Kearney.

Sincerely,



STEVE CLARK
Attorney General

SC/JK/pw