

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

December 7, 2018

Conrad Mord, Esquire
Walthall County Board of Supervisors
729 Beulah Avenue
Tylertown, Mississippi 39667

Re: Increase in Salary of County Employee Declining Group Health Insurance

Dear Mr. Mord:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply. In your letter, you state that Walthall County has for many years provided group medical insurance coverage for its employees. Recently, the Board of Supervisors received a request from an employee to raise her salary by the cost of such insurance because she is covered by her husband's medical insurance policy.

Question Presented

May Walthall County increase the salary of a regular, full time employee by the cost of such group medical insurance policy if such employee does not want to participate in the group medical insurance coverage?

Response

Yes. A county may adopt an ordinance authorizing an increase in salary equivalent to the monthly group insurance premium for individual coverage for officers and employees who do not participate in the county group insurance plan.

Legal Research and Analysis

Section 25-15-101 of the Mississippi Code provides, in pertinent part:

The governing board of any county, municipality, municipal separate school district, other school district or community/junior college district, and the governing board or head of any institution, department or agency of any county or municipality may negotiate for and secure for all or specified groups of employees and their dependents of such county or municipality, or institution, department or agency of such county or municipality, or municipal

separate school district, other school district or community/junior college district, a policy or policies of group insurance covering the life, except as hereinafter provided, salary protection, health, accident and hospitalization, as well as a group contract or contracts covering hospital and/or medical and/or surgical services or benefits (including surgical costs, so-called "hospital extras," medical expenses, allied coverages and major medical costs) of such of its employees and their dependents as may desire such insurance and other coverage under such service or benefit contracts, and who shall authorize in writing the deduction from the salary or wages of such employees of the proportionate part of the costs thereof attributable to such employees.

Section 19-3-40 also provides:

(1) The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and any such board shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances. Except as otherwise provided in subsections (2) and (3) of this section, the powers granted to boards of supervisors in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi.

Except as provided in subsection (2) of this section, such orders, resolutions or ordinances shall apply countywide unless the governing authorities of any municipality situated within a county adopt any order, resolution or ordinance governing the same general subject matter. In such case the municipal order, resolution or ordinance shall govern within the corporate limits of the municipality.

We have previously opined, citing home rule, that there was no prohibition of a governing authority of a municipality to adopt an ordinance authorizing an increase in salary equivalent to the monthly group insurance premium for individual coverage for officers and employees who are denied such coverage by the insurance carrier. MS AG Op., Johnson (March 12, 1986). See also MS AG Op., Carter (August 26, 2005) (opining that a municipality has the authority to increase the salary of any employee foregoing the municipal insurance). Thus, by analogy, we now opine that there is no prohibition against the Walthall County Board of Supervisors adopting an ordinance authorizing an increase in salary equivalent to the monthly group insurance premium for individual coverage for officers and employees who decline participation in the county group insurance plan.

However, such action would be discretionary rather than mandatory in nature. In our opinion, a county which chooses not to adopt such ordinance would not be liable for any

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such payments to any officer or employee who may be denied coverage by the insurance carrier or declines to participate in the group insurance plan offered by Walthall County. Please note that:

"[a] county board of supervisors is not authorized to pay additional compensation in lieu of health insurance premiums to a newly elected county official who already has separate health insurance coverage from a different source. County elected officials' salaries are set by statute and may not be reduced or increased. However, the elected official is entitled to waive coverage altogether."

MS AG Op., Mord (November 20, 2009).

If this office may be of any further assistance to you, please let us know.

Sincerely,

OFFICIAL

By:

JIM HOOD, ATTORNEY GENERAL
OPINION



Avery Mounger Lee
Special Assistant Attorney General