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## State of Louisiana

DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

June 1, 2020  
OPINION 20-0047

David Ditch  
Iberia Parish Clerk of Court  
300 Iberia Street  
New Iberia, LA 70560

74 Insurance

La. R.S. 13:783

Discusses payment of premiums by the clerk of court for certain types of insurance policies held by eligible retirees.

Dear Mr. Ditch:

You have submitted a request to our office for an opinion concerning the interpretation of La. R.S. 13:783(F)(7), which states, in pertinent part:

(7) In the parishes of . . . Iberia . . . the clerk of court shall pay, from the clerk's salary fund, one hundred percent of the premium costs of the group life and accidental death and dismemberment, group health, accident, dental, hospital, surgical, or other medical expense insurance for any employee that retires from the . . . Iberia Parish clerk of court's office . . . who is entitled to receive monthly benefits from the Louisiana Clerks' of Court Retirement and Relief fund, who has at least twenty years of full-time service with the clerk of court's office in . . . Iberia Parish . . . and who is at least fifty-five years of age. The provisions of this Paragraph shall not apply to any other insurance, such as supplemental insurance, that an employee may elect to purchase.

Based on your opinion request and subsequent telephone conferences, we understand that the Iberia Parish Clerk of Court ("Clerk") currently pays one hundred percent of eligible retirees' premiums "for group health insurance, group dental insurance, and group life and accidental death and dismemberment ("AD&D") insurance" policies.<sup>1</sup> We also understand that the Clerk's office pays one hundred percent of eligible retirees' premiums for certain insurance policies purchased from AFLAC, which policies may include one or more of the following types of insurance coverage: "accident, cancer, vision, dental, hospitalization, incurrence of specified diseases, etc." (your correspondence defines these as the "AFLAC Supplemental Policies"). We also understand that "AFLAC has in place individual whole or term life policies for some of the eligible retirees," ("AFLAC Life Insurance Policies") and the Clerk's office pays 100% of these premiums.

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<sup>1</sup> April 28, 2020 correspondence.

You advise that the AFLAC Supplemental Policies and AFLAC Life Insurance policies are purchased on an individual basis for each of the retirees and that they are not group policies. We understand that you have been unable to obtain copies of the AFLAC Supplemental Policies and AFLAC Life Insurance Policies because AFLAC considers these policies “personal to the retirees, and thus, only the individual retiree can request [to] receive a copy of the policy.”<sup>2</sup>

Based on these facts, you have asked our office the following questions:

1. Does La. R.S. 13:783(F)(7) require the Clerk to continue paying premiums for the AFLAC Supplemental Policies and/or AFLAC Life Insurance Policies?
2. Does La. R.S. 13:783(F)(7) require the Clerk to pay premiums for individual policies of whole or term life insurance?
3. Does La. R.S. 13:783(F)(7) require the clerk to continue paying premiums for group policies of life insurance that do not include accidental death and dismemberment insurance?
4. Whether the Clerk is required to pay premiums for the types of policies listed in La. R.S. 13:783(F)(7) if the policies do not provide medical expense insurance?
5. Whether policies that pay benefits directly to the insured individuals upon an event triggering coverage are excluded as “supplemental insurance” as set forth in the final sentence of La. R.S. 13:783(F)(7)?
6. Does La. R.S. 13:783(F)(7) apply to former clerks of court who have retired?

For clarity, we have individually addressed each question below.

**1. Does La. R.S. 13:783(F)(7) require the Clerk to continue paying premiums for the AFLAC Supplemental Policies and/or AFLAC Life Insurance Policies?**

No, La. R.S. 13:783(F)(7) only obligates the Clerk to pay premiums for certain types of “group” insurance policies held by eligible retirees.<sup>3</sup> Based on your statement that the AFLAC Supplemental Policies and AFLAC Life Insurance Policies are individual, non-group insurance policies, it appears that La. R.S. 13:783(F)(7) does not obligate the Clerk to pay those premiums.<sup>4</sup>

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<sup>2</sup> April 28, 2020 correspondence.

<sup>3</sup> This office previously opined that La. R.S. 13:783(F) (“only authorizes the clerk to contract on behalf of his employees with *group* health insurance programs and other types of *group* insurance programs.” (emphasis added)). La. Atty. Gen. Op. 90-483.

<sup>4</sup> Because this office has not received copies of the policies at issue, we do not provide any opinion on whether the policies themselves qualify as “group” insurance as referenced in La. R.S. 13:783(F)(7).

**2. Does La. R.S. 13:783(F)(7) require the Clerk to pay premiums for individual policies of whole or term life insurance?**

No, La. R.S. 13:783(F)(7) requires that the Clerk to pay the full premiums for “*group* life and accidental death and dismemberment insurance” policies held by eligible retirees. (Emphasis added). Accordingly, we do not interpret La. R.S. 13:783(F)(7) to require the Clerk to pay premiums for non-group insurance policies.

**3. Does La. R.S. 13:783(F)(7) require the clerk to continue paying premiums for group policies of life insurance that do not include accidental death and dismemberment insurance?**

No, but the clerk is obligated to pay premiums for “group life *and* accidental death and dismemberment” policies as set forth in La. R.S. 13:783(F)(7). (Emphasis added). The rules of statutory interpretation instruct, “[w]hen a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.”<sup>5</sup> Louisiana Revised Statute 13:783(F)(7) uses the phrase “*the* group life and accidental death and dismemberment.” (Emphasis added). The statute uses a definite article to modify “group life and accidental death and dismemberment.” The definite article “the” indicates that the statute contemplates a specific or particular type of insurance policy. We do not believe the statute requires the Clerk to pay premiums for a standalone group life insurance policy if the retiree does not also have a group AD&D policy.

Louisiana Revised Statute 13:783 obligates the clerk to pay premiums for a group life and accidental death and dismemberment policy. AD&D coverage is often included as a rider on life insurance policies.<sup>6</sup> However, the Clerk must pay the premiums if the retiree has separate group life insurance and group AD&D insurance policies, as long as the retiree maintains both policies. The Clerk would not be obligated to pay premiums if the retiree only had one of these two types of group insurance policies. Accordingly, it is our opinion that the phrase “group life and accidental death and dismemberment” as used in La. R.S. 13:783(F)(7) requires the Clerk to pay premiums for group life insurance and group AD&D insurance when the retiree has both types of coverage.

**4. Whether the Clerk is required to pay premiums for the types of policies listed in La. R.S. 13:783(F)(7) if the policies do not provide medical expense insurance?**

It is this office’s opinion that La. R.S. 13:783(F)(7) obligates the Clerk to pay one hundred percent of premiums for retirees who have purchased “group life and accidental death and dismemberment, group health, accident, dental, hospital, [or]

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<sup>5</sup> La. C.C. art. 9.

<sup>6</sup> See 10 Steven Plitt, et al., *Couch on Ins.* § 139:1 (3rd ed. 2019) (“Accidental death, for example, is a common ‘additional’ coverage provision in life insurance policies . . .”).

surgical” policies without regard to whether those policies provide medical expense insurance.

“Medical expense insurance” is not defined in the statute. However, the statute requires the clerk to pay the full premiums for certain types of insurance that are not “medical expense insurance.” For example, the statute requires the Clerk to pay the full premiums for eligible retirees’ group life and AD&D insurance policies. Life insurance policies usually pay benefits to identified beneficiaries upon the insured person’s death. Such benefits are paid without regard to any medical expenses incurred by the insured or beneficiary.<sup>7</sup> Interpreting the statute to require that all the identified policies be “medical expense insurance” would lead to an absurd result because the statute would, on the one hand, require payment of premiums for life and AD&D insurance while simultaneously imposing a restriction exempting most, if not all, such life and AD&D policies from the statute. Accordingly, we do not interpret La. R.S. 13:783(F)(7) to limit the Clerk’s obligation to pay the full insurance premiums for eligible retirees’ “group life and accidental death and dismemberment, group health, accident, dental, hospital, [or] surgical” policies to only those policies providing “medical expense insurance.”

**5. Whether policies that pay benefits directly to the insured individuals upon an event triggering coverage are excluded as “supplemental insurance” as set forth in the final sentence of La. R.S. 13:783(F)(7)?**

The term “supplemental insurance” is not defined by La. R.S. 13:783, and the statute makes no mention of the way the identified policies must pay benefits. In fact, the statute requires the Clerk to pay premiums for certain types of insurance policies that traditionally pay benefits directly to the insured. For example, La. R.S. 13:783(F)(7) requires the Clerk to pay premiums for accident insurance policies. Accident insurance policies often pay benefits directly to the insured upon the occurrence of an accident or some other triggering event. An AD&D policy may also pay benefits directly to an insured if the insured is dismembered but not killed by an accident. Thus, if “supplemental insurance” meant any policy paying benefits directly to the insured individuals upon an event triggering coverage, it would lead to an absurd result. The statute would require the Clerk to pay premiums for accident and AD&D coverage while simultaneously exempting a substantial portion of those types of policies. Therefore, we do not interpret the term “supplemental insurance” to only refer to types of insurance policies that pay benefits directly to the insureds upon the occurrence of a particular event or accident.

**6. Does La. R.S. 13:783(F)(7) apply to former clerks of court who have retired?**

In your request, you note that La. R.S. 13:783 uses the terms “clerks” and “clerk employee” separately. For instance, subpart (F)(1) says:

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<sup>7</sup> See 1 Steven Plitt, et al., *Couch on Ins.* § 1:46 (3rd ed. 2019) (“Hospital and medical expense insurance is not life insurance.”).

F. (1) Each of the clerks of the district courts is authorized to contract separately or through the insurance committee that administers the clerk's insurance fund of the Louisiana Clerks of Court Association to obtain from any insurance company authorized to do business in this state, group life and accidental death and dismemberment, group health, accident, dental, hospital, surgical, or other medical expense and group disability insurance. This insurance may cover *the clerk of court, the clerk's employees*, dependents of the clerk and the dependents of the clerk's employees.

(Emphasis added.)

Later, in subsection F(3), the statute says:

(3) *The clerk or any clerk's employee* that retires under the clerks of court retirement program may elect to continue insurance coverage obtained under this Subsection and the costs may be paid in the same manner as if he were still employed provided that *the clerk or clerk's employee* was a *clerk or clerk's employee* and a member of the Louisiana Clerks' of Court Retirement and Relief Fund for at least twelve years prior to retirement.

(Emphasis added.)

By contrast, subpart (F)(7) states that the Clerk shall pay premiums "for any *employee* that retires from the . . . Iberia Parish clerk of court's office . . . . The provisions of this Paragraph shall not apply to any other insurance, such as supplemental insurance that an *employee* may elect to purchase." (Emphasis added) Subpart (F)(7) does not expressly reference retired clerks of court. As you point out, other subparts of the statute requiring other Parish Clerks of Court to pay premiums for retirees expressly refer to employees *and* clerks of court. For example, subpart F(10) requires the Acadia Parish Clerk of Court pay premiums "for *any clerk or employee* that retires from the Acadia Parish clerk of court's office."

Due to this discrepancy, you have asked whether the statute's requirement that the clerk pay for insurance "for any employee that retires" also includes former clerks of court.

It is important to note that La. R.S. 13:783(F)(7) only applies to an employee who is entitled to receive monthly benefits from the Louisiana Clerks of Court Retirement and Relief Fund, who has at least twenty-years full-time service with the enumerated clerk of court's office(s), and who is at least fifty-five years of age.


Although a clerk of court is elected, that does not preclude them from being an employee. However, due to the inconsistent language in subpart (F)(7) one could argue that the statute does not require payment of premiums for retired clerks of court. However, such an interpretation would lead to an absurd result. Under that

interpretation, the Clerk would not be required to pay premiums for a longtime clerk employee who was elected Clerk of Court before his or her retirement. Such interpretation would de-incentivize long-term employees from seeking election to the Clerk of Court's office. "When the language of the law is susceptible of different meaning, it must be interpreted as having the meaning that best conforms to the purpose of the law."<sup>8</sup> We note that Iberia Parish was one of several parishes added to La. R.S. 13:738(F)(7) by Act 605 of the 2018 Regular Session. During the April 10, 2018 Senate Judiciary B Committee hearing on SB 500, which later became Act 605, the West Feliciana Clerk of Court, Felicia Ann Hendl, advised the Committee that SB 500 "will give me health insurance when I retire." Although not determinative, such testimony suggests that the drafters contemplated that the statute would require the Clerks to pay the full premiums for retired Clerks of Court. Accordingly, it is this office's opinion that the word "employee" as used in La. R.S. 13:783(F)(7) refers to *both* retired employees and retired clerks of court.<sup>9</sup>

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY  
ATTORNEY GENERAL

BY:   
C. Austin Holliday  
Assistant Attorney General

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<sup>8</sup> La. C.C. art. 10.

<sup>9</sup> Iberia Parish was one of several Parishes added to La. R.S. 13:738(F)(7) by Act 605 of the 2018 Regular Session. During the April 10, 2018 Senate Judiciary B Committee hearing on SB 500, which later became Act 605, the West Feliciana Clerk of Court, Felicia Ann Hendl, advised the Committee that SB 500 "will give me health insurance when I retire." Although not determinative, such testimony suggests that the drafters contemplated that the statute would require the Clerks to pay the full premiums for retired Clerks of Court.