

N.D.A.G. Letter to Powers (Feb. 26, 1990)

February 26, 1990

Mr. Thomas D. Powers
Warden
North Dakota State Penitentiary
P.O. Box 5521
Bismarck, ND 58502-5521

Dear Warden Powers:

Thank you for your January 2, 1990, letter requesting my opinion on whether the State Penitentiary is obligated to pay health insurance premiums on behalf of former employees who were terminated due to disability. As you indicate in your letter, I previously rendered an opinion on whether the Department of Agriculture was obligated to pay health insurance premiums for a former employee who became disabled while employed by the State. See Letter from Attorney General Spaeth to Mr. Jeff Weispfenning (October 13, 1989).

In the October 13, 1989, letter, I concluded as follows:

N.D.C.C. § 54-52.1-03(3) and (4) establish that an employee is entitled to continued health insurance coverage after termination if the former employee pays the premium. The former employing department has no legal obligation to make premium payments on behalf of a former employee.

I further concluded that the ambiguous definition of "eligible employee," as it relates to "disabled permanent employees," did not change my opinion.

My October 13, 1989, conclusion is not limited to reduction in force situations and would apply to the situation described in your January 2, 1990, letter. Therefore, it is my opinion that the State Penitentiary is not legally obligated to pay health insurance premiums on behalf of former employees who were terminated due to disability.

I hope this response is helpful to you.

Sincerely,

Nicholas J. Spaeth

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Enclosure