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No. 3--11-0012

Order filed February 15, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

CALVIN PICKUP, RONALD H.	)	Appeal from the Circuit Court
SMITH and WILLIAM B.	)	of the 12 <sup>th</sup> Judicial Circuit
APPLEGATE,	)	Will County, Illinois
	)	
Plaintiffs-Appellants,	)	
	)	
v.	)	
	)	
THE VILLAGE OF FRANKFORT, A	)	
municipal corporation, JERALD	)	No. 06--CH--2253
P. DUCAY, Individually and in	)	
his capacity as Village	)	
Administrator, and JIM	)	
HOLLAND, Individually and in	)	
his capacity as Village	)	
President,	)	Honorable
	)	Barbara Petrungaro
Defendant-Appellees.	)	Judge Presiding

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JUSTICE LYTTON delivered the judgment of the court.  
Justices McDade and O'Brien concurred in the judgment.

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**ORDER**

*Held:* Village did not violate the Police Officers Continuation Privilege contained in the Illinois Insurance Code where it paid for deductibles and

vision insurance of active police officers but not retired or disabled officers.

Plaintiffs Calvin Pickup, Ronald H. Smith and William B. Applegate, former officers of the Village of Frankfort (Village) police department, filed a two-count complaint against the Village, its administrator, Jerald DuCay, and its president, Jim Holland, seeking the same medical and vision benefits the Village provides to active police officers. Both parties filed motions for summary judgment. The trial court granted defendants' motion. We affirm.

Plaintiffs Calvin Pickup, Ronald H. Smith and William B. Applegate are former police officers who were once employed by the Village police department. Pickup receives a disability pension from the Village as a result of an injury sustained in the line of duty. Smith and Applegate receive regular retirement pensions from the Village. In addition to their pensions, plaintiffs receive medical insurance from the Village under the Village's group medical policy with Blue Cross/Blue Shield.

The Village provides certain benefits to active police officers that it does not provide to former officers. The Village pays all medical insurance deductibles on behalf of active police officers, while former officers are solely responsible for paying their own deductibles. Additionally, the

Village provides vision insurance to active police officers. Vision insurance is not available to former officers.

Plaintiffs filed a complaint for declaratory judgment and injunctive relief. Count I alleged that the Village was violating the Police Officers Continuation Privilege contained in section 367g of the Illinois Insurance Code (Code) (215 ILCS 5/367g (West 2008)) by not providing them the same benefits that are available to active police officers. Count II alleged a violation of plaintiffs' constitutional rights. Attached to the complaint was a letter from a staff attorney from the Illinois Department of Financial and Professional Regulation Division of Insurance, responding to an inquiry from plaintiffs. The staff attorney concluded that "retired police officers have the same rights with respect to deductibles as active employees."

Defendants filed a motion to dismiss count II of plaintiffs' complaint, and plaintiffs filed a motion for summary judgment. The trial court issued an order denying plaintiff's motion for summary judgment and granting defendants' motion to dismiss count II. Defendants later filed a motion for summary judgment on both counts, which the trial court granted.

#### ANALYSIS

The primary goal when interpreting the language of a statute is to ascertain and give effect to the intent of the legislature.

*Ryan v. Board of Trustees of the General Assembly Retirement System*, 236 Ill. 2d 315, 319 (2010). The plain language of a statute is the best indication of the legislature's intent. *Ryan*, 236 Ill. 2d at 319. Where the statutory language is clear and unambiguous, we will enforce it as written and will not read into it exceptions, conditions, or limitations that the legislature did not express. *Ryan*, 236 Ill. 2d at 319.

In interpreting statutory language, legislative intent may be discerned from the use of terms in other sections of the same or other Illinois statutes. *Christ Hospital and Medical Center v. Illinois Comprehensive Health Insurance Plan*, 295 Ill. App. 3d 956, 961 (1998). Where the same or substantially the same words or phrases appear in different parts of a statute, they should be given a consistent meaning unless a contrary legislative intent is clearly expressed. *Bridgestone/Firestone, Inc. v. Aldridge*, 179 Ill. 2d 141, 152 (1997).

"[L]etters may be relied on as agency interpretations of the statutes to which some deference may be accorded[;] however, 'courts have the reserve of power to substitute their own judgment on all questions of statutory interpretation.'" ' " *Cosby w. Ward*, 843 F.2d 967, 981 (7th Cir. 1988) (quoting *Doe v. Reivitz*, 830 F.2d 1441, 1447 (7th Cir. 1987), quoting 2 K. Davis, *Administrative Law Treatise* § 7:11, at 55 (1979)). Although an

agency's interpretation is generally given deference, the interpretation of a statute remains a question of law that we review *de novo*. *Ryan*, 236 Ill. 2d at 319.

Section 367g of the Code contains two separate components depending on the type of insurance provided by a municipality to police officers. The first part applies to municipalities that obtain "group accident and health insurance" for their officers. The second part applies to municipalities that obtain insurance for their officers in some other way, such as "through self-insurance, pool or reciprocal insurance or by contract in a form other than a policy of group insurance." See 215 ILCS 5/367g (West 2008).

The first component of section 367g states that if a municipality obtains "group accident and health insurance" for police officers, "equivalent coverage" must be available to former police officers. 215 ILCS 5/367g (West 2008). It requires that there be "no distinction or discrimination in the amount or rate of premiums or in any waiver of premiums or other benefits provisions" between the coverage provided to active officers and the coverage provided to inactive officers. 215 ILCS 5/367g (West 2008).

Here, the Village obtains its health insurance through a group policy with Blue Cross/Blue Shield. Thus, the first part

of section 367g applies.

Under the first component of section 367g, a municipality must provide retired and disabled police officers the same "accident and health insurance" it provides to active officers in that it may not charge higher premiums to retired officers or otherwise alter any other "benefits provisions" that are available to active officers.

Here, plaintiffs argue that they are provided fewer benefits because the Village does not (1) pay their medical insurance deductibles, or (2) provide them with vision coverage.

I

Whether the Village's practice of paying deductibles for active officers, but not retired or disabled officers, violates section 367g depends on whether the Village's payment of deductibles qualifies as a "benefits provision." A benefits provision refers to something contained within an insurance policy. See *Allstate Insurance Co. v. Davenport*, 309 Ill. App. 3d 750 (1999); *Rizzo v. Travelers Insurance Co.*, 193 Ill. App. 3d 67 (1989). Here, the Village's payment of deductibles is completely independent and outside of the insurance policy. Thus, the Village's payment of deductibles does not violate the first part of section 367g.

Plaintiffs, however, rely on the second component of section

367g. This part of section 367g states that if a municipality obtains insurance for its officers in a form other than a policy of group insurance, such as through self-insurance, that insurance must be available to former officers, and former officers are entitled to the same benefits as active officers. 215 ILCS 5/367g (West 2008). Thus, plaintiffs argue that the Village cannot provide an extra "benefit" to active officers because the Village's practice of paying deductibles for its active officers is a type of "self-insurance."

Black's Law Dictionary defines "self-insurance as "[t]he practice of setting aside to meet losses instead of insuring against such through insurance." Black's Law Dictionary 1220 (5th Ed. 1979). Additionally, a leading legal treatise on insurance states:

"to meet the conceptual definition of self-insurance, an entity would have to engage in the same sorts of underwriting procedures that insurance companies employ; estimating likely losses during the period, setting up a mechanism for creating sufficient reserves to meet those losses as they occur, and, usually, arranging for commercial insurance of losses in excess of some stated amount." 1 Couch on Insurance 10:1 (3d 1997).

The Village did not become self-insured by paying deductibles for active police officers. It never set aside funds to cover losses or "engage[d] in \*\*\* underwriting procedures that insurance companies employ." Indeed, there was no need for self-insurance since the Village already had commercial insurance through Blue Cross/Blue Shield for active officers and retirees. The second part of section 367g does not apply.

## II

Whether the Village must provide vision coverage to retired and disabled officers depends on whether vision coverage fits within the term "accident and health insurance." Section 367g does not define "accident and health insurance." Therefore, we look to other provisions of the Code and other Illinois statutes to see how that term is defined. See *Aldridge*, 179 Ill. 2d at 152; *Christ Hospital and Medical Center*, 295 Ill. App. 3d at 961.

Several sections of the Code specifically exclude vision care from the definition of accident and/or health insurance. See 215 ILCS 5/356z.18 (West 2008) ("accident or health insurance" does not include vision insurance); 215 ILCS 5/368f (West 2008) (requirements for "health insurance coverage" policies do not apply to vision care policies). Other statutes defining similar terms suggest that vision coverage is separate from accident and health insurance coverage. See 215 ILCS 105/2

(West 2008) ("Health insurance coverage" does not include vision only coverage); 215 ILCS 138/10 (West 2008) ("Health benefit plan" means an "accident and health insurance policy" but does not mean vision insurance); 215 ILCS 139/10 (West 2008) (same). Nothing in section 367g suggests that the term "accident and health insurance" should be interpreted more broadly than it is in other sections of the Code or other Illinois statutes. Thus, we find that section 367g does not require the Village to pay vision benefits for former officers.

Because section 367g does not require the Village to pay deductibles for former officers or provide them with vision benefits, the trial court did not err in granting summary judgment to defendants.

#### CONCLUSION

The order of the Will County circuit court is affirmed.

Affirmed.