STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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NASHVILLE, TENNESSEE 37219

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GOVERNOR

ELAINE A. McREYNOLDS
COMMISSIONER

B U L L E T I N

TO: All Accident and Health Insurers

FR: Elaine A. McReynolds, Commissioner
Department of Commerce and Insurance EAM

RE: Newborn Coverage, T.C.A. 56-7-1003

DA: September 1, 1988

Attached you will find a recent Attorney General's Opinion regarding newborn child coverage.

Briefly, the Attorney General states that an insurer must cover a newborn child as long as the parent tenders any increased premium for family coverage or for coverage of the child within 31 days of the child's birth. In other words, the parent need not have family coverage at the date of the child's birth. The parent may add such coverage within 31 days following the child's birth.

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STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37219

September 2, 1988

OPINION NO. 88-162

Well-Born Child Insurance Coverage

QUESTION

Whether T.C.A. § 56-7-1001 requires insurance companies to provide newborn insurance coverage under only family insurance policies already in effect on the date of birth of the dependent child. Stated differently, whether Tennessee law would prohibit an insurer from choosing to extend coverage to a newborn infant only if the insured parent of the child had a family insurance policy in effect on the date of the newborn's birth.

OPINION

It is the opinion of this office that T.C.A. § 56-7-1001 requires insurance to provide coverage for a child from the moment of birth if the parent of the child had pre-existing family insurance coverage or if the parent tenders the increased premium for such coverage within thirty-one (31) days of the child's birth.

ANALYSIS

In relevant part, T.C.A. § 56-7-1001 provides:

> (a) All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts

> issued by a nonprofit corporation which provide coverage for a child of the insured or subscriber shall, as to such child's coverage, also provide that the health insurance benefits applicable to children, if any, shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.
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> . . .
>
> (c) If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

The manner in which these statutory provisions are interpreted is governed by well-established rules of statutory construction.

Two of those rules were reiterated by the Tennessee Supreme Court in the case of Worrall v. Kroger Co., 545 S.W.2d 736, 738 (Tenn. 1977). In Worrall, the Court stated that:

> [t]he fundamental rule of statutory construction is to ascertain and, if possible, give effect to the intention or purpose of the legislature as expressed in the statute. [Citation omitted]. This legislative intent or purpose is to be ascertained primarily from the natural and ordinary meaning of the language used, when read in the context of the entire statute, without any forced or subtle construction to limit or extend the import of the language. [Citations omitted].

Id.

Based upon those and other similar rules of statutory construction, it appears that T.C.A. § 56-7-1001, when read in its entirety, would require that an insurance company provide newborn insurance coverage to any child of a parent who had already purchased family insurance coverage prior to the birth of that child. Additionally, such newborn coverage must be

extended to any child of a parent who tenders the specific premium or subscription fee required to provide coverage for a child within thirty-one (31) days after the birth of the child. To construe the statute otherwise would to ignore the plain meaning of T.C.A. § 56-7-1001(c) and would confer upon the General Assembly an intent to require possible premium payments for insuring the health of an individual not yet in existence.

A statute should be construed so as to give effect to all of its provisions. See United Canners, Inc. v. King, 696 S.W.2d 525, 527 (Tenn. 1985). "It is improper . . . to lift one sentence, word or clause from a statute and construe it alone, without reference to the balance of the statute." State ex rel. Rector v. Wilkes, 222 Tenn. 384, 390, 436 S.W.2d 425 (1968).

If T.C.A. § 56-7-1001 is interpreted to require a parent to secure a family insurance coverage prior to the birth of a child in order for that child to be covered from the moment of birth, the provisions of subsection (c) are rendered meaningless. Pursuant to subsection (c), payment of a specific premium required to provide insurance coverage for a child (e.g., the increased premium necessary to convert from an individual to a family policy) may be tendered at anytime within thirty-one (31) days of birth to continue the coverage required by T.C.A. § 56-7-1001(a) beyond that thirty-one (31) day period. If T.C.A. § 56-7-1001 is, however, construed to require maintenance of family insurance coverage prior to birth of a child, the subsection (c) provision for payment of an increased premium to continue coverage beyond the thirty-one (31) day period is meaningless since no increased or specific premium payment will be required. The premium increase for family coverage will have already been assessed prior to birth and no new increase after birth is needed.

Clearly, T.C.A. § 56-7-1001(a) refers only to insurance policies already providing coverage for children. Reading that subsection in isolation, therefore, it might appear that a parent must have pre-existing family insurance coverage in order to have a newborn child insured from the moment of birth. Despite the limited impact of T.C.A. § 56-7-1001(a) standing alone, however, T.C.A. § 56-7-1001(c) expands the coverage envisioned in subsection (a).

If no pre-existing family coverage is in effect at the moment of a child's birth, an additional "specific premium . . . is required to provide coverage for a child." T.C.A. § 56-7-1001(c). Subsection (c) allows payment of that premium within thirty-one (31) days of birth "in order to have the coverage continue beyond such thirty-one (31) day period." (Emphasis added). If the coverage is to continue beyond the thirty-one (31) day period, the statute obviously contemplates that the child's medical coverage before payment of the

increased premium will be insured if that premium is later tendered within thirty-one (31) days of the date of birth. Thus, a common-sense reading of the entire statute indicates that a parent may ensure coverage of a newborn child's medical expenses by either having pre-existing family insurance coverage or by tendering the additional premium for such coverage within thirty-one (31) day of the birth of the child.

Additionally, interpreting T.C.A. § 56-7-1001 to require family coverage before the child's birth to ensure that the child is covered by health insurance from the moment of birth would attribute an unrealistic intent to the legislature that passed the statute. Many two-income couples, for example, maintain two separate individual insurance policies through the respective spouses' employers. If prior family insurance coverage is required before the birth of a child if that child is to be covered by health insurance, one of the spouses must convert to a higher-priced family policy many months prior to child birth in order to be sure that the medical costs associated with a possible premature birth are reimbursed. Under such a scenario, a parent would, in many cases, be required, in order to protect against catastrophic medical costs, to pay increased premiums for many months before the actual birth of the covered child.

An even more unjust result could occur in the case of an adopted child. In such a case, if pre-existing family coverage is required by T.C.A. § 56-7-1001, a parent may have to pay increased family coverage premiums for many years before being matched with an adoptive child. It cannot be assumed that the legislature intended such an absurd result. See Epstein v. State, 211 Tenn. 633, 641, 366 S.W.2d 914 (1963).

Pursuant to rules of statutory construction, T.C.A. § 56-7-1001 must be read as a whole, giving effect to every provision of the statute. Such a reading of the statute leads to the inescapable conclusion that insurance coverage for newly born children must be provided from the moment of birth if a parent of the child had pre-existing family insurance coverage or if the parent tenders the increased premium for such coverage within thirty-one (31) days of the child's birth.

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Requested by:

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