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OPINION NO. 2015-07

HEALTH; PUBLIC EMPLOYEES'
BENEFITS PROGRAM (PEBP);
MEDICAL DIRECTOR: PEBP
does not fall within the definition
of "managed care organization,"
and therefore the requirement in
NRS 695G.110 that managed
care organizations retain medical
directors is not applicable to
PEBP.

Mr. Damon Haycock
Executive Officer
State of Nevada
Public Employees' Benefits Program
901 S. Stewart Street, Suite 1001
Carson City, Nevada 89701

Dear Mr. Haycock:

You have requested an opinion from the Office of the Attorney General whether the Public Employees' Benefits Program of the State of Nevada (PEBP) is a "managed care organization" or otherwise subject to NRS 695G.110, and therefore required to retain a medical director.

QUESTION PRESENTED

Is PEBP a managed care organization within the meaning of NRS Chapter 695G, or is it otherwise subject to NRS 695G.110, such that it is required to retain a medical director?

SUMMARY CONCLUSION TO QUESTION

PEPB does not fall within the definition of "managed care organization," and the requirement in NRS 695G.110 that managed care organizations retain medical directors is not made specifically applicable to PEBP. Therefore PEBP is not required to retain a medical director.

ANALYSIS

Under Nevada law, managed care organizations are required to retain medical directors. NRS 695G.110. NRS 695G.050 provides that "[m]anaged care organization" means any insurer or organization *authorized pursuant to this title* to conduct business in this State that provides or arranges for the provision of health care services through managed care." (Emphasis added.) That definition governs the whole of NRS Chapter 695G. NRS 695G.010. "[T]his title" refers to the insurance title of the Nevada revised statutes, i.e., Title 57, consisting of NRS chapters 679A through 697. See e.g. *MGM Mirage v. Nevada Ins. Guar. Ass'n*, 125 Nev. 223, 209 P3d 766 *passim* (2009). In contrast, PEBP derives its authority to procure insurance for public employees from NRS Chapter 287, specifically NRS 287.043. NRS chapter 287 is found in Title 23 of the Nevada Revised Statutes.

When a statute is clear on its face, a court is required to apply its plain meaning. *State v. Lucero*, 127 Nev. ___, ___, 249 P.3d 1226, 1228 (Adv. Op. 7, Mar. 17, 2011). NRS 695G.050 is clear on its face in applying only to entities operating under NRS Title 57 and in not applying to PEBP, which derives its authority under NRS chapter 287, in Title 23. PEBP is therefore not a managed care organization as defined in NRS 695G.050, and NRS 695G.110 is not directly applicable to PEBP under NRS chapter 695G.

While PEBP is not a managed care organization, certain specific provisions of NRS Chapter 695G that are applicable to managed care organizations are also made applicable to PEBP by PEBP's own statute, insofar as PEBP provides health insurance through a plan of self-insurance:

If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.167, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, in the same manner as an insurer

Damon Haycock, Executive Officer
State of Nevada Public Employees' Benefits Program
November 19, 2015
Page 3

that is licensed pursuant to title 57 of NRS is required to
comply with those provisions.

NRS 287.04335.

The enumerated provisions in NRS 287.04335 do not include NRS 695G.110, which requires a managed care organization to retain medical directors. The Legislature's failure to do so is instructive of legislative intent not to subject PEBP to the requirement. *Department of Taxation v. DaimlerChrysler Services North America, LLC*, 121 Nev. 541, 548, 119 P.3d 135, 139 (2005) (applying the canon of construction *expressio unius est exclusio alterius*; "Nevada law . . . provides that omissions of subject matters from statutory provisions are presumed to have been intentional"). The omission of any reference in NRS 287.04335 to NRS 695G.110, which requires a managed care organization to retain medical directors, thus supports a conclusion that PEBP is not subject to that requirement.

CONCLUSION

The Public Employees' Benefits Program is neither managed care organization as defined in NRS chapter 695G, nor is it otherwise subject to the requirement of NRS 695G.110 to retain a medical director.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:



DENNIS L. BELCOURT
Deputy Attorney General
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DLB/slg