

Policy Memo Number: 132  
Date Issued: 11/15/07  
Policy File Ref: A310  
Subject: Employee Eligibility

**Issue:**

**Determine EBD policy concerning the enrollment of unpaid board members by public authorities in the New York State Health Insurance Program.**

**Background:**

Civil Service Law § 167(2) states that public authorities enrolling unpaid board members in NYSHIP are not required to pay the cost of health insurance premium for such persons, and coverage for unpaid board members may not take effect until the board member has six months of service. This allows public authorities whose enabling legislation forbids any compensation for unpaid board members to enroll them in NYSHIP, but not pay the employer share premium that is usually required for employees.

It does not authorize agencies to pay unpaid board members' health insurance premiums contrary to enabling acts prohibiting their receipt of compensation. In March 2007, the State Attorney General, in an opinion (2007 F1) concerning the New York State Finance Agency and the State of New York Mortgage Agency opined that the prohibition against paying their board members "salary or other compensation" included health insurance premiums as being "other compensation." However, because of the decentralized enrollment of employees of non-State agencies in NYSHIP, EBD does not know which persons enrolled under public authorities are board members, nor do we know whether an agency is paying a part of their premium.

**Policy:**

Inform public authorities entering NYSHIP that CSL § 167(2) does not authorize payment of health insurance premium where the enabling acts forbid all compensation, and of the Attorney General's opinion concerning the payment of premium for unpaid board members. Advise authorities to check with the Attorney General if they have questions concerning the interpretation of their enabling legislation and whether they are permitted by it to contribute to the health insurance premium of unpaid board members.