THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF BANKS
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COMMISSIONER OF BANKS

November 19, 2014

Robert Losi
Chair, Board of Directors
First Priority Credit Union
100 Swift Street
East Boston, MA 02128

Dear Mr. Losi:

This letter is in response to your correspondence to the Division of Banks (Division), dated May 28, 2014, in which you requested an opinion clarifying the Division's position on whether a credit union may reimburse individual directors for the cost of the director's family plan health insurance premiums.

As you know, Massachusetts General Laws chapter 171, section 25 (Section 25) expressly authorizes state-chartered credit unions to "provide group life insurance, group accident and health insurance or group medical, surgical or hospital insurance or benefits . . . for its employees, officers and directors." Furthermore, Chapter 244 of the Acts of 2004 provides that "directors ineligible for the group benefit may be reimbursed up to the net dollar amount of the individual participant cost of the group benefit." Additionally, the Division has previously determined that a credit union may extend access to a family insurance plan to its directors; however, the difference between the cost of the individual plan and family plan premiums must be reimbursed to the credit union by directors who opt for such insurance. *See* Opinion 97-160 summarized in the Division's Digest of Selected Opinions, Third Quarter 1997.

In your letter you suggested that Section 25's limitation on health insurance reimbursements should apply to the dollar amount of the reimbursement. Accordingly, you concluded that Section 25 should permit credit union directors with family health insurance plans to receive reimbursement for the full cost of the family plan premium, "provided that said amounts do not exceed the net dollar amount of the individual participant cost of the group benefit."

As you are aware, credit union directors have traditionally served in a voluntary capacity, and therefore, their benefits are quite limited. For example, pursuant to Massachusetts General Laws chapter 171, section 20, credit union directors may not receive compensation for serving as a member of the board. Additionally, prior to the passage of Chapter 79 of the Acts of 1990, which added Section 25 to Chapter 171, a credit union director could only be reimbursed for actual expenses incurred in the performance of his or her official duties.

Section 25 authorized credit unions to improve benefits by offering group life insurance, group accident and health insurance or group medical, surgical or hospital insurance or benefits to employees, officers and directors. Directors were treated the same as officers and employees for the purpose of receiving those insurance benefits. Section 25 also provided the Commissioner of Banks with the authority to establish reasonable restrictions in connection with a credit union's insurance benefits.

Section 25 was subsequently amended by Chapter 244 of the Acts of 2004. The amendment, once again, improved benefits for credit union directors by permitting the directors that were ineligible for the group benefit offered through the credit union to be reimbursed up to the net dollar amount of the individual cost of the group benefit. Chapter 244 also added the last sentence of Section 25 which authorized the Commissioner to make adjustments and exceptions as in his judgment are necessary to carry out or facilitate compliance with Section 25.

The Division has given careful consideration to your interpretation of Section 25; and in light of the legislative history of Chapter 25, the Division agrees with your analysis. The Division initially opined that the cost of a director's health insurance premium authorized to be reimbursed under Section 25 was the cost of the director's individual health insurance plan. That determination was based upon the Division's belief that the purpose of Section 25 was for a credit union to be able to provide desired health insurance coverage and reimbursements specifically to its directors. The Division continues to believe that the purpose of Section 25 is to provide insurance benefits to its directors and should not be extended to their families. However, in this case because the director is entitled to the value of the cost of the individual coverage as provided by the Credit Union and because the cost of family benefit from an outside vendor chosen by the director is less expensive than the cost of an individual benefit at the credit union, the Division has determined that in this situation the director may purchase the family plan. Thus, a director may be reimbursed under Section 25 for the cost of the director's individual or family health insurance plan through a source other than the credit union provided that the amounts paid for a family plan do not exceed the net dollar amount of the individual participant cost of the group benefit offered by the credit union.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

Merrily S. Gerrish

Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel

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