

ADVISORY OPINION

Agency Name:

Department of Employment Security

Subject: Unemployment Insurance coverage

Admin Code Citation/Public Act Number:

Section Numbers:

Illinois Register Citation (Page Number and Publication Date):

Type of Rule: (New/Emergency/Amended)

Type of Impact: (Reporting/Cost or Fee/Education Credit/Other - specify): Health insurance for domestic partner of retired worker

Business or Industry Type Affected:

Effective Date:

Plain Language Explanation:

Members of the public may submit comments to the agency contact listed above. Comments should be submitted within 45-days of publication in the Illinois Register.

Public Hearing Location (if applicable): (Include date, time and location)

Advisory Opinion (if applicable):

Inquiry is made as to whether there is unemployment insurance liability to pay contributions upon amounts paid for health insurance for a domestic partner of a retired worker. Section 234 of the Illinois Unemployment Insurance Act (“Act”) [820 ILCS 405/234], states that “[s]ubject to the provisions of Section 235 and 245 C, “wages” means every form of remuneration for personal services....” Section 235(B) provides for an exclusion from wages for “[t]he amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing services for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (1) sickness or accident disability (except those sickness or accident disability payments which would be includable as ‘wages’ in Section 3306(b)(2)(A) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985,

such includable payments to be attributable in such manner as provided by Section 3306(b) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985), or (2) medical or hospitalization expenses in connection with sickness or accident disability” It is our opinion that Section 235(B) provides that if

the person is treated as a dependent under the plan or system established by the employer that generally provides the health insurance, then that person will be deemed to be a dependent for purposes of the exclusion for medical or hospitalization expenses as stated in Section 235(B). The language of a statute is to be given its plain and ordinary meaning, and the dictionary can be used to ascertain the ordinary and popular meaning of words. See e.g., *Nix v. Whitehead*, 368 Ill. App.3d 1, 5; 856 N.E.2d 1111, 1115 (1st. Dist. 2006). The plain and ordinary meaning of “dependent” is one who relies on another for support. See, e.g., *Webster’s Third New International Dictionary*, 1986.

Section 401C of the Act [820 ILCS 405/401] defines for purposes of determining whether an individual receives a dependent’s allowance that a dependent means a child or nonworking spouse. However, the definition in Section 401C is expressly “for the purposes of this subsection” – not intended to be applied for purposes of the UI Act in general. Rule Section 2730.130 [56 Ill. Adm. Code 2730.130] references 18 U.S.C.A. 115(c)(2) in which a dependent is defined as a person who is related by blood or marriage, for the purposes of determining, between an employer and third party payor, who shall be responsible for payment of unemployment insurance contributions for sickness or accident disability payments deemed to be included in wages. However, that provision appears to be limited to a narrow fact situation where sickness or disability payments (as opposed to insurance premiums) are considered wages; there is no indication it is intended to generally define “dependent” for purposes of the UI Act either. Accordingly, it is the Department’s opinion that payments for health insurance for the domestic partner of a retired worker under an employer’s plan or system that generally provides for health insurance for retired workers and their dependents are excluded from wages subject to the payment of unemployment insurance contributions if such domestic partner is deemed a dependent under the plan or system, as long as the payments are not subject to the payment of taxes under the Federal Unemployment Tax Act (FUTA).