

**Opinion No. 2.**

**Firemen's Relief Association, use of  
funds thereof—Emergency Defense—  
Fireman Program—Funds—Insurance  
—Voluntary Firemen.**

Held: No part of the funds of a fireman's relief association may be used to purchase insurance covering "emergency firemen" who are acting firemen under the Emergency Defense Fireman Program but who are not members of a regularly organized volunteer fire department recognized by an incorporated city or town, or regularly confirmed members of a fire department.

December 10, 1942.

Mr. John J. Holmes  
State Auditor and Ex-Officio  
Commissioner of Insurance  
State Capitol Building  
Helena, Montana

Dear Mr. Holmes:

You have transmitted to this office a letter addressed to you from the secretary of the Laurel Firemen's Relief Association, requesting an opinion, as follows:

"We would like to know if we could use our funds to pay for insurance policy to cover the emergency firemen who will be on our Emergency Defense Fireman Program being organized here in town."

Section 5135, Revised Codes of Montana, 1935, provides how the funds of the Relief Association may be used in the following language:

"Use of disability and pension fund of fire department relief association. Said fund shall not be used for any other purpose whatsoever, other than for the payment of the following:

1. A service pension to a member who, by reason of service, has become entitled to a service pension.
2. A pension to a member who has become maimed or disabled in line of duty.
3. A benefit or allowance to a member who has suffered injury in line of duty.
4. A benefit or allowance to a member who has contracted sickness in line of duty.
5. To defray the funeral expenses of a member, in an amount not to exceed, however, the sum of two hundred fifty dollars (\$250.00).
6. Payment of a pension to the widow, orphan or orphans of a deceased member.
7. The payment of premiums upon a blanket policy of insurance covering the members of such fire department and providing for payment of compensation in case of death or injury to such member or any of them incurred in the line of duty in such fire department.
8. All claims shall be paid by warrant duly authorized, drawn by

the secretary, and countersigned by the president of the association and on presentation thereof, the treasurer shall pay the same out of the said disability and pension fund."

It will be noted that the statute is very specific in providing that the funds shall be used only for payment for the various purposes TO MEMBERS. It is therefore necessary to determine who are members.

Section 5129, Revised Codes of Montana, 1935, authorizes the formation of fire department relief associations and provides who shall be members thereof, as follows:

"The confirmed members of the fire department or departments, together with the volunteer fire department or departments recognized by the city or town council in each incorporated city or town of this state are hereby authorized to form themselves into a local association to be known as the fire department relief association of the city or town. . . ."

And Section 5130, Revised Codes of Montana, 1935, among other things, provides:

". . . No one serving as a substitute or on probation nor any person who has not been confirmed a member of an organized fire department is eligible for membership in the relief association. . . ."

There is no provision in the statute for "Emergency Firemen," and such is not included in Section 5130, as being eligible to membership in the association. Therefore, being ineligible for membership in the association, an emergency fireman not being a confirmed member of an organized fire department or a member of a volunteer fire department recognized by the city or town council of an incorporated city or town, cannot participate in the association funds. In other words, the funds of the relief association cannot be used to benefit other than members of the association.

It is therefore my opinion that no part of the funds of a firemen's relief association may be used to purchase insurance covering "Emergency Firemen" who are acting under the Emergency Defense Firemen Program, but

who are not members of a regularly organized volunteer fire department recognized by an incorporated city or town, or regularly confirmed members of a fire department.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General