

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 85

December 16, 1993

RE: Must insurance and HMO agents register as executive agency lobbyists?

This opinion is in response to your November 10, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 1993, meeting of the Commission and the following opinion is issued.

You ask the Commission whether licensed insurance and Health Maintenance Organization (HMO) agents are required to register as executive agency lobbyists if these agents assist an HMO in obtaining or renewing the account with the state for the HMO to provide health benefits to state employees.

The Commission reviewed this request in light of the definitions in KRS 11A.201(7) and (8)(a) as follows:

(7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated;

(8) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his main purposes on a regular and substantial basis.

In Advisory Opinion 93-41 (a copy of which is enclosed), "other financial arrangement" is interpreted to mean any arrangement whereby funds of an executive branch agency are distributed or allocated to the benefit of any person, company, organization seeking such funds. The Commission believes an agreement to provide insurance for state employees represents an "other financial arrangement" with respect to the expenditure of state funds.

Therefore, those insurance and HMO agents who, through contacts with executive branch officials, are attempting to influence the outcome of an agreement to provide state employee insurance benefits should register with the Commission as executive agency lobbyists. Submission of an application to provide health care benefits, by itself, does not require registration. The decision to register should be based on whether the agent is attempting to influence state officials as to approval/disapproval or terms of an agreement.