



**TYRONE C. FAHNER**

ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

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FILE NO. 81-015

**UNIVERSITIES AND COLLEGES:  
State Universities  
Retirement System**

**Donald Hoffmeister  
Executive Director  
State Universities Retirement System  
50 Gerty Drive  
P. O. Box 2710 - Station A  
Champaign, Illinois 61810**

Dear Mr. Hoffmeister:

I have your letter in which you give the following facts:

“Melvin A. Hanson, an employee of Southern Illinois University, Edwardsville became disabled in September 1974, and received disability benefits from the State Universities Retirement System beginning September 4, 1974. The cause of disability was hypertension and renal tumor.

In July 1975, Mr. Hanson had a heart attack and filed a [workers'] compensation claim for the heart condition. In February 1978, the Decision of Arbitrator in Case No. 77 WC 3661 granted workmen's compensation benefits for the July 1975, heart attack. The Decision on Review dated February 26, 1979, revised the [workers']

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compensation benefit, but continues to provide for a payment for life."

You then ask:

"Should the State Universities Retirement System disability benefit beginning in September 1974, being paid for a disability resulting from hypertension and renal tumor be reduced under the provisions of Paragraph 4 of Section 15-153 for a [workers'] compensation award granted for a heart attack that occurred in July 1975?"

For the reasons hereinafter stated, it is my opinion that benefits under the State Universities Retirement System (Ill. Rev. Stat. 1979, ch. 108 1/2, par. 15-101 et seq.) should be reduced only to the extent that the workers' compensation award is not for "medical, surgical and hospital services".

Section 15-150 of the Illinois Pension Code (Ill. Rev. Stat. 1979, ch. 108 1/2, par. 15-150) provides for disability benefits as follows:

"A person who, because of mental or physical disability arising from any cause while he is a participating employee, becomes unable to perform the duties of his assigned position for any period exceeding 60 days, shall be entitled to disability benefits, except that no benefits shall be payable for any disability which begins prior to the completion of 2 years of service unless the disability is caused by an accident. \* \* \*

\* \* \*

The duration of such benefits is established by section 15-152. (Ill. Rev. Stat. 1980 Supp., ch. 108 1/2, par. 15-152.) Their amount is set by section 15-153 at 50% of the employee's basic compensation. (Ill. Rev. Stat. 1979, ch. 108 1/2, par. 15-153.)

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However, these disability benefits must be offset by awards given under the Workers' Compensation or Occupational Diseases Act:

" \* \* \*

In determining the monthly disability benefits payable to any participant, a deduction shall be made equivalent to any benefits payable to the employee under any State or Federal Workers' Compensation or Occupational Diseases Acts for any period for which disability benefits are payable, except payment for medical, surgical and hospital services and artificial members or appliances, fixed statutory payments for the loss of any bodily member, or the permanent and complete loss of use of 100% of any bodily member, payments for loss of industrial vision or redemption awards payable prior to the date monthly disability benefits first become payable.

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" The Workers' Compensation Act provides two kinds of payments. The first kind is compensation for destroyed or impaired earning capacity. (Ill. Rev. Stat. 1980 Supp., ch. 48, par. 138.8(b)-(j).) The second covers the medical, surgical, hospital training, appliance and rehabilitation services required as a result of the injury. (Ill. Rev. Stat. 1980 Supp., ch. 48, par. 138.8(a).) Subsection 8(a) of the Act (Ill. Rev. Stat. 1980 Supp., ch. 48, par. 138.8(a)) expressly provides that the furnishing of such services or appliances "is not the payment of compensation". This distinction is required and followed by the Illinois courts and the text

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authorities. E. R. Moore Co. v. Industrial Comm'n (1979),  
71 Ill. 2d 353, 360; T. Angerstein, Illinois Workmen's  
Compensation § 1484 (rev. ed. 1952).

The facts given in your letter show that Mr. Hanson has been receiving benefits for his heart condition, under the Workers' Compensation Act, during the time he has been receiving disability benefits from the State Universities Retirement System for hypertension and renal tumor. These Workers' Compensation payments are for destroyed earning capacity, and not for medical, surgical, hospital training, appliance or rehabilitation service. Therefore, as mandated by section 15-153 of the Illinois Pension Code, disability benefits paid by the State Universities Retirement System should, in this particular circumstance, be offset by the Workers' Compensation award.

Very truly yours,

  
ATTORNEY GENERAL