

The State of South Carolina



Office of the Attorney General

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February 21, 1986

James E. Chaffin, Jr., Staff Attorney
Crime Victims' Compensation Fund
800 Dutch Square Boulevard, Suite 160
Columbia, South Carolina 29210

Dear Mr. Chaffin:

In a letter to this Office you questioned whether Section 16-3-1130 of the Code empowers the State Crime Victim's Compensation Fund (hereafter "the Fund") to delegate the statutory duties of a field representative to an individual who is neither a field representative nor an employee of the Fund.

Pursuant to Section 16-3-1130, a claim filed with the Fund:

... must be assigned to a field representative. The field representative shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of the claim ... The field representative conducting the investigation shall file with the Deputy Director a written report setting forth a recommendation and his reason therefor....

Section 16-13-1110 (5) of the Code defines a "field representative" as "... a field representative of the State Workers' Compensation Fund."

As set forth above, the provisions of Section 16-3-1130 are quite clear in mandating that any claim of a crime victim must be assigned to a field representative of the State Workers' Compensation Fund for handling. The statutes as presently

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written provide no flexibility in such regard. Moreover,

... in the absence of permissive constitutional or statutory provisions, administrative officers and agencies cannot delegate to a subordinate or another powers and functions which are discretionary or quasi-judicial in character or which require the exercise of judgment; and subordinate officials have no power with respect to such duties. On the other hand, the general rule is that mere ministerial functions may be delegated.

79 C.J.S. Public Administrative Law and Procedure Section 56 pp. 513 - 514. As provided in Section 16-3-1130, the duties of a field representative in handling and filing a recommendation on a claim filed with the Fund are discretionary. Therefore, consistent with the above statement, such duties could not be delegated to an individual who is not a field representative, who, again, is defined as a field representative of the State Workers' Compensation Fund.

Of course, the decision as to who is a field representative is a decision which can only be made by the State Workers' Compensation Fund. Therefore, administratively, the decision must be made by such agency as to the individuals who are considered as such.

If there are any questions, please advise.

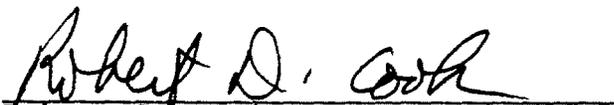
Sincerely,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
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