

1978 WL 35276 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 22, 1978

*1 Mr. Douglas K. Shueler
State Workmen's Compensation Fund
1026 Sumter Street
Columbia, South Carolina 29201

Dear Mr. Shueler:

You have asked for the opinion of this Office concerning whether an appointed Deputy Coroner in Lexington County, who receives no compensation from the County, is entitled to Workmen's Compensation coverage. It is my understanding that the Deputy Coroner was appointed by the Coroner, who petitioned the Court of Common Pleas for such appointment.

I have enclosed for your information two previous opinions from this Office dealing with similar questions. The first, dated March 24, 1976, states that mere volunteers, without a contract for hire and without compensation, are not within the scope of coverage provided by the State Fund in [Section 42-7-60, Code of Laws of South Carolina, 1976](#). The second opinion discusses other factors which must be considered when determining whether one is an 'employee' for purposes of Workmen's Compensation.

Normally, courts examine four factors in determining employee status—the right to an exercise of control, the method of payment, furnishing of equipment and right to fire. [Tharpe v. G. E. Moore Co., 254 S.C. 196, 174 S.E.2d 397 \(1970\)](#), and [Chavis v. Watkins, 256 S.C. 30, 180 S.E.2d 648 \(1971\)](#). It is my understanding that the Deputy Coroner in question meets all of the above criteria, except the one involving compensation.

I am informed that the Coroner's office establishes the Deputy Coroner's work schedule, thereby exercising its right of control. Also, the Deputy Coroner, when on duty, uses a radio furnished by the County. As to the right to fire, I would presume that the Deputy Coroner's certificate of appointment could be revoked through the same procedures by which it was issued. Moreover, [Section 42-1-130 of the 1976 Code](#), which defines employees for purposes of Workmen's Compensation, specifically includes employment by appointment.

For the reasons stated above, it is the opinion of this Office that the appointed Deputy Coroner in Lexington County, who serves without compensation, is an employee for purposes of Workmen's Compensation and is, therefore, covered by the State Workmen's Compensation Fund.

Sincerely,

James W. Johnson, Jr.
Assistant Attorney General

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