

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0920**

In the Matter of the Claim for Benefits by Dean A. Nelson

**Filed June 3, 2008
Affirmed
Connolly, Judge**

Minnesota Public Safety Officers Benefit Eligibility Panel

Jamison W. Cichosz, Hastings, Cichosz & Nice PLLP, 123 Lincoln Avenue East, Fergus Falls, MN 56538 (for appellant)

Lori Swanson, Attorney General, Bernard E. Johnson, Assistant Attorney General, 445 Minnesota Street, Bremer Tower, Suite 1800, St. Paul, MN 55101 (for respondent)

Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Collins, Judge.*

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellant challenges the Minnesota Public Safety Officers Benefit Eligibility Panel's decision to deny his request for continued-health-insurance coverage, arguing that his injury occurred during his scope of duties as a police officer. Because it is

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

undisputed that appellant's injury did not lead to his retirement or separation from service, we affirm.

FACTS

Appellant Dean Nelson is a former Otter Tail County Deputy Sheriff. On December 3, 2004, appellant slipped on ice and injured his back when entering his patrol car while in the city of Henning. As a result of this injury, appellant did not return to work in the Otter Tail Sheriff's Office until February 14, 2005. Even though his injury prevented him from working in the Otter Tail Sheriff's Office, appellant returned to work with the City of Battle Lake's Police Department on December 13, 2004, as its police chief.

After returning to work in the Otter Tail Sheriff's Office, appellant worked a year and a half without any restrictions on his duties. Eventually, appellant applied for disability benefits as a result of his December 3, 2004 injury. On February 22, 2007, appellant's application for disability benefits was approved. Appellant then separated from service with the Otter Tail Sheriff's Office in March 2007. At the time of his separation, appellant was still employed as Battle Lake's police chief. That position required appellant to "perform all essential functions of a patrol officer."

Following his separation from the Otter Tail Sheriff's Office, appellant filed a continued-health-coverage-benefit-request form with the Minnesota Public Safety Officers Benefit Eligibility Panel (the panel). The panel grants duty-related disability benefits to eligible applicants. In order to be eligible for continued-health-insurance coverage, a determination must be made that an individual's professional duties put him

at risk for the type of injury he actually received. Minn. Stat. § 299A.465, subd. 1(a)(2) (2006). This determination is made by the panel. The panel consists of two members recommended by the Minnesota League of Cities, one member recommended by the Association of Minnesota Counties, two members recommended by the Minnesota Police and Peace Officers Association, one member recommended by the Minnesota Professional Firefighters Association, and one nonorganizational member recommended by the six other panel members. Minn. Stat. § 299A.465, subds. 6, 7 (2006). After a review by the panel, appellant’s request for continued health-insurance-coverage was denied. This appeal follows.

D E C I S I O N

The provision of continued-health-insurance coverage to disabled peace officers¹ is governed by Minn. Stat. § 299A.465 (2006). That statute provides mandated prerequisites for receipt of continued-health-insurance coverage:

Subdivision 1. Officer or firefighter disabled in line of duty.

(a) This subdivision applies when a peace officer or firefighter suffers a disabling injury that:

(1) *results in the officer’s or firefighter’s retirement or separation from service;*

(2) occurs while the officer or firefighter is acting in the course and scope of duties as a peace officer or firefighter; and

¹ A “peace officer” is defined as “an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest.” Minn. Stat. § 626.84, subd. 1(c)(1) (2006); *see also* Minn. Stat. § 299A.41, subd. 4(1) (2006) (defining peace officer by reference to Minn. Stat. § 626.84).

(3) the officer or firefighter has been approved to receive the officer's or firefighter's duty-related disability pension.

Minn. Stat. § 299A.465, subd. 1(a) (emphasis added).

Most relevant to this case is the requirement that any injury results in “retirement or separation from service.” “Service” is left undefined by the statute. *See* Minn. Stat. § 299A.41 (2006) (omitting “service” from the “definitions” portion of the statute). Specifically, the statute does not specify whether “service” refers to all “service” or only the particular “service” that an officer was employed in at the time of his injury. “We review questions of statutory construction de novo.” *Houston v. Int’l Data Transfer Corp.*, 645 N.W.2d 144, 149 (Minn. 2002)

We hold that a broader reading of “service” is appropriate. We reach this decision for three reasons. First, the statute’s apparent intent is to provide benefits to officers who have been disabled. Providing such a benefit to a peace officer who is able to continue working without any restrictions on his duties would run contrary to this intent. Second, to provide permanent disability benefits to an individual who is able to maintain employment as a peace officer without any restrictions would lead to an absurd result. *See* Minn. Stat. § 645.17 (2006) (stating that a court may presume that “the legislature does not intend a result that is absurd” when enacting a law). Third, if the legislature intended for “service” to be narrowly construed, it could have drafted the statute to read “retirement or separation from service that employed the officer at the time of his injury.” The legislature did not draft that provision in the statute, and it is not our role to add it. *See Ullom v. Indep. Sch. Dist. No. 112, Chaska*, 515 N.W.2d 615, 617 (Minn. App. 1994)

(stating that this court cannot add to a statute “what the legislature purposely omits or inadvertently overlooks”) (quotations omitted).

In this case, the undisputed factual record establishes that appellant’s injuries did not lead to his total separation from service. They led to his separation from the Otter Tail Sheriff’s Office, but they did not lead to his separation from Battle Lake’s police department. That appellant has continued to work as a police officer with no restrictions on his job duties disqualifies him from receiving permanent, lifetime continued-health-insurance coverage under section 299A.465.

Because appellant’s injury did not lead to his retirement or separation from service, we need not address the issue of whether appellant’s injuries occurred during the scope of his professional duties.

Affirmed.