

Pension Benefit Guaranty Corporation

78-18

August 4, 1978

REFERENCE:

[\*1] 4022 Benefits Guaranteed

OPINION:

This is in response to your inquiry concerning the impact on guaranteed benefits of an employer's inability to meet minimum funding contributions.

As we understand the facts, your client is the union which represents the participants in a defined benefit plan. The employer has had past difficulties in funding the plan. In 1976, the employer made some contributions against 1973 and 1974 funding levels; no contributions have been made for 1975 or 1976. The minimum funding standards required by the Employee Retirement Income Security Act of 1974 ("ERISA") became applicable to the plan on January 1, 1977. The employer has requested a waiver from the Internal Revenue Service (the "IRS") for the minimum funding contribution that is due by September 15, 1978.

Your client is concerned about the possible impact on guaranteed benefits of the waiver and the pre-ERISA funding difficulties. Employees' guaranteed benefits are not impaired by an employer's temporary inability to make contributions to the plan. In the event of a plan's termination, the Pension Benefit Guaranty Corporation (the "PBGC") will provide the benefits guaranteed under Title IV of ERISA. [\*2] An employer is liable to the PBGC to the extent that the guaranteed benefits exceed plan assets.

I hope that this will be of assistance to you.

Henry Rose  
General Counsel