

Pension Benefit Guaranty Corporation

82-36

November 16, 1982

REFERENCE:

[*1] 4021(a) Plans Covered. Requirements of Coverage
4021(b)(7) Plans Covered. Foreign Plans

OPINION:

This is in response to your letter requesting a ruling on the coverage status of the above captioned plan (the "Plan") under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1301 et seq. (1976), as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, (September 26, 1980). We find that the plan is covered by the Title IV pension insurance system.

The Plan was originally established in 1971 to provide pension benefits for the employees of * * * Inc., a corporation operating a hospital in * * *, * * *. It was funded through a Group Annuity Insurance Contract with State Mutual Life Assurance Company of America of * * *, * * *. The plan was amended and restated in 1975. A notice of intent to terminate the Plan was filed in November, 1980.

We have determined that the plan is an employee pension benefit plan described in Section 1021(a) of ERISA, 29 U.S.C.A. § 1321(a) (1981).

The plan is not exempt from Title IV as a plan "established and maintained outside of the United States primarily for the benefit of individuals [*2] substantially all of whom are non-resident aliens," ERISA Section 4021(b)(7), 29 U.S.C.A. § 1321(b)(7) (1981). Virtually all Puerto Rican residents born in Puerto Rico after 1899 are U.S. citizens, not aliens, 8 U.S.C. § 1402 (1976). Section 4021(b)(7) is thus inapplicable.

Case Officer * * * has informed us that he will be contacting you with respect to setting a date of plan termination and determining whether a trusteeship will be necessary. You can contact him, if you prefer, at * * * or at the above address.

This letter constitutes an initial determination of the PBGC which is subject to administrative reconsideration under PBGC Regulation Part 2606, 29 C.F.R. Part 2606 (1981). A copy of the current regulation is enclosed for your convenience.

I trust this will help you.

Henry Rose
General Counsel