

Pension Benefit Guaranty Corporation

78-20

September 14, 1978

REFERENCE:

[*1] 4022 Benefits Guaranteed
4022(c) Benefits Guaranteed. Non-Basic Benefits

OPINION:

This is in response to your request for review of the handling of the * * * (pension plans, with particular reference to the decision of the Pension Benefit Guaranty Corporation (the "PBGC") not to cover "non-basic" benefits of the * * * (* * *) retirees. As you are aware, the PBGC is currently paying benefits to * * * retirees amounting to some \$117,000 per month under the basic benefit guarantee program and expects ultimately to pay benefits amounting to some \$30 million to participants in the four covered plans and their beneficiaries. Additionally, the PBGC is currently engaged in litigation in the United States District Court for the Western District of * * *, defending its determination that the * * * pension plans are * * * covered by the termination insurance provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") and that the PBGC should pay guaranteed benefits to those participants.

Section 4022(c) of ERISA provides that the PBGC may, in its discretion, establish a guarantee program for coverage of non-basic plan benefits. The PBGC has found that its basic benefit program covers [*2] the great majority of covered plan benefits and has deferred institution of a non-basic benefit program until additional experience is gained under the basic benefits program.

With respect to the * * * pension plans specifically, we do not believe that Section 4022 of ERISA permits non-basic coverage on a case-by-case basis, but rather envisions a program applicable to all covered plans. Because of this, the PBGC cannot guarantee the payment of the * * * non-basic benefits.

I hope that this explanation has been helpful to you.

Matthew M. Lind
Executive Director