

U.S. Department of Labor

Labor-Management Services Administration
Washington, D.C. 20216



Reply to the Attention of:

OPINION 81-77A
Sec. 3(1)

OCT 14 1981

Mr. Andrew R. Hricko
Insurance Institute for Highway Safety
Watergate Six Hundred
Washington, D.C. 20037

Dear Mr. Hricko:

This is in reply to your letter requesting an advisory opinion regarding coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask the following questions:

- 1) whether automatic travel insurance available from the American Express Company without charge when using its travel card to pay for business travel would constitute an "employee welfare benefit plan" within the meaning of section 3(1) of ERISA; and,
- 2) whether personal accident insurance acquired by and at the discretion of employees when renting an automobile for employer business purposes, and paid for by the employer, would constitute an "employee welfare benefit plan" within the meaning of section 3(1) of ERISA.

You state that the Insurance Institute for Highway Safety (the Institute) is an American Express travel cardholder. You indicate that American Express has informed the Institute that it will provide automatic travel insurance to the Institute if the Institute uses its travel card to pay for business travel. The travel insurance is provided by American Express at no additional charge beyond the regular fee for the card. The Institute accordingly has adopted a policy of having employee travel charged to its American Express account.

Further, you state the Institute also intends to establish a policy whereby it will agree to pay for personal accident insurance to be purchased by its employees when renting automobiles for Institute business. This coverage costs an additional \$2.00 per day of automobile rental and provides \$1,500.00 in medical benefits and \$150,000.00 in death benefits.

An "employee welfare benefit plan" is defined in section 3(1) of ERISA as:

... any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) any benefit described in section 302(c) of the Labor Management Relations Act, 1947 (other than pensions on retirement or death, and insurance to provide such pensions).

On the basis of your representations, the Department is of the opinion that neither of the arrangements described above is, for purposes of section 3(1) of ERISA, a plan, fund, or program established or maintained by the Institute, and that, accordingly, neither one is an employee welfare benefit plan covered by title I of ERISA

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Ian D. Lanoff
Administrator of Pension and Welfare Benefit Programs