



OPINION NO. 84-32A
Sec. 3(32), 4(b)(1)

JUL 13 1984

Mr. Chester E. Pintarelli
Administrator
Iron County Medical Care Facility
1523 West US-2
Crystal Falls, Michigan 49920

Dear Mr. Pintarelli:

This is in reply to your letters of July 22, 1982, and of September 20, 1982, to the Department of Labor (the Department) on behalf of the Iron County Medical Care Facility, also known as County Infirmary (the Infirmary), concerning applicability of title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you request an advisory opinion concerning whether the Infirmary's provision of life insurance for its employees is a governmental plan within the meaning of section 3(32) of ERISA and, thus, excluded from title I of ERISA.

You state that Iron County established the Infirmary in 1930 and is its owner. Capital expenditures require county appropriations. The Iron County Board of Social Services (the Board) establishes the Infirmary's policy and procedural operations. The Board has three members. The Iron County Board of Commissioners appoints two Board members; the Michigan Department of Social Services, one. Formerly, the Infirmary sought yearly appropriations from the Iron County Board of Commissioners equalling the differences between revenues and expenditures. The appropriation process did not always result in receipt from Iron County of the amount requested. Currently, as a result of State legislation effective January 1, 1981, entitled the County Maintenance of Effort Act, State Authorities bill Iron County for the difference between costs incurred by the Infirmary and rates the Infirmary charges for its services under the Medicaid program or to private patients. The Infirmary claims exemption from Michigan sales tax and also submits a signed statement by Paul H. Schultz, Prosecuting Attorney, Iron County, that the Infirmary is a governmental entity or political subdivision within the meaning of Internal Revenue Code section 103(a).

The Infirmary's retirement plan is part of the Municipal Employees Retirement System administered by the State of Michigan. The Infirmary also provides all permanent full-time and part-time employees completing 30 days probation with \$2500 term life insurance. The insurance carrier is Wausau Insurance Companies. Policies have an accidental death and disability provision. The Infirmary pays all premiums. Dependents are not covered. On termination of employment, employee policies may be converted at the employee's option, to life insurance up to the face amount without a physical examination. After termination of employment, former employees must assume the expense of any life insurance coverage they choose to continue on an individual basis.

ERISA section 4(b)(1) provides for exclusion from ERISA title I coverage of governmental plans. Governmental plans described in section 3(32) of ERISA are established and maintained by a political subdivision, agency, or instrumentality of government for its employees.

Based on the factual situation presented, including that funding for the Infirmary is derived in part from Iron County and that Iron County appoints Board members and establishes the Infirmary's operating policies, the Department views the Infirmary as a political subdivision and the Infirmary's life insurance program for its employees as a governmental plan excluded from ERISA title I coverage.

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

Sincerely,

Morton Klevan
Deputy Administrator