

U.S. Department of Labor

Pension and Welfare Benefits Administration
Washington, D.C. 20210



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86-15A
Sec.

Mr. Carl J. Bender, Jr.
Chief Executive Officer
Waterman Medical Center
116 E. MacDonald Avenue
P.O. Box B
Eustis, Florida 32727-0377

Dear Mr. Bender:

This is in reply to your letter and the letter of Ms. Kayrl S. Hauck requesting an advisory opinion from the Department of Labor (the Department) that the Waterman Medical Center Employee Benefit Plan (the Plan) is an employee welfare benefit plan covered by title I of the Employee Retirement Income Security Act of 1974 (ERISA).

The letters and the accompanying Plan Document contain the following facts and representations. Waterman Medical Center (Waterman), formerly called the Waterman Memorial Hospital, is a Florida corporation with offices in Eustis, Florida. On October 1, 1982, Waterman established the Plan to provide certain employee welfare benefits, as discussed hereinafter, for the eligible employees of Waterman and their eligible dependents.¹ In general, the Plan provides medical and surgical benefits in the event of sickness or an accident, and hospital and outpatient care. (Plan Document, page 18A.) The Plan is governed by the Benefit Committee consisting of a group of persons designated by Waterman (Plan Document, page 1). You represent that the Plan is fully self-insured and is funded through contributions made by both Waterman and the participating employees.

Pursuant to ERISA section 4, in pertinent part, title I of ERISA applies to any employee benefit plan if it is established or maintained by an employer engaged in commerce or in any industry or activity affecting commerce except those plans exempt under section 4(b). Some plans covered by title I of ERISA are exempted from certain parts thereof. The term "employee benefit plan", as defined in section 3(3) of title I of ERISA, includes employee welfare benefit plans.

¹ We note that the term "eligible persons" under the Plan Document includes "full time owners ... who have satisfied the [Plan's] eligibility period" We are assuming, for purposes of this advisory opinion, that all such owners are also employees of Waterman.

ERISA section 3(1) provides that the term "employee welfare benefit plan" includes "... 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)." Health benefits of the type provided by the Plan are included in ERISA section 3(1).

The term "employer" is defined in ERISA section 3(5) as "...any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity." Waterman meets this definition with respect to the Plan for the purpose of providing benefits for its employees and their beneficiaries.

The term "participant" is defined in section 3(7) of ERISA title I, in pertinent part, as "... any employee or former employee of an employer, ... who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of such employer ..., or whose beneficiaries may be eligible to receive any such benefit." The employees of Waterman are participants under the Plan.

The term "employee" is defined in section 3(6) of ERISA title I as "... any individual employed by an employer." Because Waterman meets the definition of "employer" in ERISA section 3(5) with respect to the Plan, the individuals employed by Waterman meet the definition of employee in ERISA section 3(6).

The term "beneficiary" is defined in section 3(8) of ERISA title I as "... a person designated by a participant, or by the terms of an employee benefit plan, who is or may become entitled to a benefit thereunder." Persons designated by Plan participants or by the terms of the Plan meet the requirements of the term "beneficiary" as defined by section 3(8) of ERISA.

Because the Plan was established and is maintained by an employer within the meaning of section 3(5) of ERISA, to provide health benefits for Plan participants (eligible Waterman employees) and their beneficiaries, the Plan constitutes an employee welfare benefit plan as defined in ERISA section 3(1). As noted above an employer's program of benefits is deemed an

employee welfare benefit plan by the Department when it meets the definition of section 3(1) of ERISA, without regard to whether the plan provides benefits through insurance or otherwise.

Accordingly, the Department views the Plan as an employee welfare benefit plan covered by title I of ERISA.

This opinion addresses only the question of whether the Plan is subject to title I of ERISA. It does not address any other issues under ERISA, including, but not limited to, the requirement of section 403(a) of ERISA that plan assets be held in trust.

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,

Elliot I. Daniel
Assistant Administrator for Regulations and Interpretations