



November 18, 1993

Mr. William G. McKelvey
Medical Claims Service, Inc.
300 Congress Street
Quincy, Massachusetts 02169

93-31A
ERISA SECTION
3(1)

Dear Mr. McKelvey:

This is in reply to your request for an advisory opinion regarding the applicability of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the TNCO, Inc. Health Benefits Plan (the TNCO Plan) is an employee welfare benefits plan within the meaning of section 3(1) of Title I of ERISA.

You advise that TNCO, Inc. (TNCO) adopted the TNCO Plan effective April 1, 1982, to provide group health coverage to its employees. Only employees of TNCO itself are covered under the TNCO Plan. Claims under the TNCO Plan are sent to your company, Medical Claims Service, Inc. (MCS), which provides administrative services to the TNCO Plan as well as other clients. You further advise that the TNCO Plan is self-funded, although TNCO has obtained stop-loss coverage from General American Life Insurance Company.

Section 3(1) of Title I of ERISA defines the term "employee welfare benefit plan to include:

. . . 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).

Based on the information you provided, it is the position of the Department of Labor that the TNCO Plan is a single-employer, employee welfare benefit plan within the meaning of section 3(1) of Title I of ERISA. The TNCO Plan, among other criteria, was established and is maintained by TNCO for its employees only and the benefits are among those described in section 3(1).

Further, we note that section 514(a) of Title I of ERISA generally preempts any state law which relates to an employee benefit plan covered under Title I of ERISA. Although section 514(b) provides exceptions to this general rule, the Department views the TNCO Plan as a self-funded, single-employer employee benefit plan which does not fall into any of the exceptions identified in section 514(b). However, we note further that the preemption provision of section 514(a) applies to the TNCO Plan itself. MCS is not the TNCO Plan although it provides administrative services to that plan.

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

Sincerely,

ROBERT J. DOYLE
Director of Regulations
and Interpretations