

U.S. Department of Labor

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



February 27, 1997

97-07A
ERISA SEC. 3(33)

Ms. Kathleen M. Perillo
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, Pennsylvania 19103-6993

Dear Ms. Perillo:

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 Group Pension Plan for Employees of Mercy Center for Health Services (the Pension Plan), the Mercy Center for Health Services Employee Health Benefit Plan (the Health Plan), and the Mercy Center for Health Services Dental Care Insurance Plan for Nonunion Employees (the Dental Plan), all of which are maintained by Mercy Hospital of Watertown (the Hospital), are church plans within the meaning of section 3(33) of Title I of ERISA and, therefore, are excluded by section 4(b)(2) from coverage under that title.

The Hospital maintains a number of benefit programs for its employees.¹ We note that the Pension Plan, the Health Plan, and the Dental Plan were established and are maintained by the Hospital, which was established by the Sisters of Mercy of the Americas, Regional Community of New York, (the Congregation), which is a part of the Religious Sisters of Mercy of the Americas (the Institute), a religious congregation of the Religious Sisters of Mercy. The Institute is a religious order of the Roman Catholic Church of the United States. The Hospital is organized as a membership corporation and is operated by Eastern Mercy Health System (EMHS), the sole member of the Hospital. To further its health ministry, the Institute and its provinces jointly formed EMHS, a membership corporation whose nine members are the major superiors of the nine congregations of the Institute. As part of the information included with your request, you submitted a copy of a private letter ruling in which the Internal Revenue Service (IRS) concluded that the Pension Plan, the Health Plan, and the Dental Plan were church plans within the meaning of Internal Revenue Code section 414(e).

We see no reason to disagree with the analysis and conclusion of the IRS. We therefore conclude that, to the extent that the structure and operation of the Hospital and the Pension, Health, and Dental Plans are as described in the private letter ruling referred to above, the Pension, Health, and Dental Plans are "church plans" within the meaning of section 3(33) of Title I of ERISA and, therefore, are exempt from coverage pursuant to section 4(b)(2) of that title.

¹ Although your initial request to the Department also included the Life and Accidental Death and Dismemberment Insurance Plan (#502), the Long Term Disability Income Plan (#501), the Dental Care Insurance Plan for Local 200 - SEIU Employees (the SEIU Plan), and the Cafeteria Compensation Plan for Mercy Center for Health Services, in later correspondence you requested that the requested advisory opinion be limited to the status of the Pension Plan, the Health Plan, and the Dental Plan under Title I of ERISA. Accordingly, nothing in this letter should be interpreted as indicating an opinion as to the status of the other four plans mentioned above, or any other plan, under Title I of ERISA.

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

Sincerely,

Susan G. Lahne
Chief, Division of Coverage