

Pension Benefit Guaranty Corporation

75-21

January 24, 1975

REFERENCE:

[*1] 4022(a) Benefits Guaranteed. Type of Benefits Guaranteed

OPINION:

This letter is in response to your inquiry of January 3, 1975, as to whether the Pension Benefit Guaranty Corporation will look at circumstances outside the plan documents in determining whether a benefit is nonforfeitable for purposes of Section 4022 of the Employee Retirement Income Security Act of 1974.

Section 4022(a) of the Act provides that:

"Subject to the limitations contained in subsection (b), the Corporation shall guarantee the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under the terms of A plan which terminates at a time when Section 4021 applies to it."

Therefore, in making a nonforfeitability determination, the Pension Benefit Guaranty Corporation would not ordinarily look to circumstances outside the terms of the plan. It is conceivable, of course, that circumstances could arise, such as a successful suit for reformation which would justify departure from the general rule that the terms of the plan govern. We express no view on that subject, however, since a specific case has not yet arisen.

I trust this answers [*2] your inquiry.

Henry Rose
General Counsel