Pension Benefit Guaranty Corporation

81-30

September 22, 1981

REFERENCE:
[*1] 4021(b)(2) Plans Covered. Government Plans

OPINION:

This is in response to your request for a determination by the Pension Benefit Guaranty Corporation as to whether the above pension plan (the "Plan") is excluded from coverage under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") by Section 4021(b)(2) of the Act. We conclude on the present facts that the Plan is a governmental plan and thus is excluded from coverage by that section.

As you have represented the facts, the * * *, the Plan sponsor, is a non-profit public corporation established under the Georgia Hospital Authorities Law. The Authority was created by concurrent resolutions of the Mayor and City Council of the City of * * * and of the * * * County Board of Commissioners. The general purpose of the Authority, according to Article II, Section 1 of its Restated Bylaws, is "to possess and exercise public and governmental functions to own, operate, manage and govern publicly supported hospital and related facilities in * * * County." * * * County is the source for 3.3 percent of the Authority's operating revenues. The City and the County named the original members of the Authority's Board of Trustees. [*2] Subsequently, new Trustees have been selected by sitting Trustees from nominations made by the City and the County.

The Authority is considered a governmental agency or instrumentaity for purposes of the Social Security and unemployment compensation programs. Social Security contributions are paid to the federal government through the State Employees Retirement Fund.

Based on the above, we have determined that the Authority is a governmental agency or instrumentality within the meaning of Section 4021(b)(2) and, therefore, that the Plan is not covered by Title IV.

I hope I have been of assistance. If you have any questions, please contact the attorney assigned to this case, *** at (202) 254-3010.

Henry Rose
General Counsel