

December 5, 2008

James E. Burbott II, Vice President and General Counsel
Western Corporate Federal Credit Union
924 Overland Court
San Dimas, CA 91773-1750

Re: Group Self-Insurance Program for Employee Health Benefits.

Dear Mr. Burbott:

You have asked for our concurrence with a proposed insurance arrangement enabling federal credit unions (FCUs) to provide employee health benefits through a group self-insurance program. The National Credit Union Administration (NCUA) does not endorse specific products; however, we previously have considered whether FCUs may participate in self-funded insurance programs, including group programs. As discussed below, we have no legal objection to this partially self-funded group health benefit program.

NCUA previously has determined an FCU may participate in a well-planned, partially self-funded health benefit plan for its employees. OGC Op. 95-1148 (January 30, 1996). These plans are permissible as part of an FCU's employee compensation package. Additionally, NCUA has recognized FCUs' ability to form and fund a mutual benefit corporation to facilitate a group program, provided participating FCUs are not investing "in the shares, stocks, or obligations of an insurance company . . . or any other similar organization" unless otherwise expressly authorized by the FCU Act. OGC Op. 03-0819 (November 18, 2003).

In reviewing similar plans, NCUA has considered if the plan includes features such as: (1) specific annual aggregate, and monthly aggregate, stop-loss coverage, actuarially determined and reviewed, and provided by a well-rated, reputable, and reliable reinsurer; (2) plan administration, participant administration, and benefit administration provided by an independent, reputable, and reliable non-FCU party and through written administrative services agreements; (3) an absence of FCU trust responsibilities, and the placement of fiduciary liability insurance for non-trustee FCU and FCU official fiduciaries; and (4) an absence of special reserve requirements by an FCU.

WesCorp and several credit unions propose to participate in a group self-insurance program providing employee health benefits. To participate in the program, credit unions obtain membership in a not-for-profit mutual benefit corporation (MBC) and pay a security deposit to the captive insurance company (captive insurer). This payment does not provide any voting rights or dividend rights in the captive insurer and program

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participants are under no obligation to make future deposits. Additionally, the captive insurer will only provide reinsurance policies to program participants.

The MBC provides program oversight and coordinates services on participants' behalf, for example: actuarial services; claims management; financial reporting; health benefits plan design; legal services; risk management; and, stop-loss coverage. Services are provided by non-FCU third parties under written agreements with the MBC, individual program participants, the captive manager, and the captive insurer as appropriate.

This opinion only addresses the legal permissibility of FCU participation in the partially self-funded group insurance program for employee benefits, as described above, under the FCU Act and NCUA regulations. Before implementing your program, you should contact NCUA's Office of Examination and Insurance regarding any safety and soundness concerns the office may have with the operation of the program.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/LKD:bhs
08-0549

cc: Office of Corporate Credit Unions
Office Of Examination & Insurance