
Reproduced with permission from Pension & Benefits Reporter, 40 BPR 1154, 05/14/2013. Copyright © 2013 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

Defined Benefit Plans

PBGC Reverses Prior Position as It Agrees To Pay Benefits for Shuttered Hospital's Plan

The Pension Benefit Guaranty Corporation announced May 10 that, in a reversal of a prior position, it would pay the pension benefits for more than 800 former employees of a New Jersey hospital center that closed in 2004.

The pension plan sponsored by the Hospital Center at Orange, which provided primary and emergency care in Orange Township, was originally covered by the Employee Retirement Income Security Act and protected by PBGC, the agency said. But the Internal Revenue Service determined in 2003, after the hospital became affiliated with Cathedral Healthcare System Inc., that the pension plan had become a church plan, which meant it was ineligible for PBGC protection, the agency said. Soon after the IRS decision, the hospital "began winding down its operations and laying off employees," PBGC said. Plan participants went to court to challenge the IRS decision, but that lawsuit was dismissed in 2005 (153 PBD, 8/10/05; 32 BPR 1790, 8/16/05).

However, IRS in March revoked a private letter ruling that had designated the plan as a church plan, the Pension Rights Center said in a news release. PBGC said the plan is within months of running out of money and "so if PBGC had not stepped up, benefit payments would have stopped." PBGC said that, according to its estimates, as of the plan's termination date, Jan. 1, 2009, it had \$11 million in assets to pay \$41 million in benefits. The agency said it expects to cover the entire \$30 million shortfall and expects to pay the benefits owed under the plan.

"Why did PBGC push to take on this substantial financial responsibility? The answer is simple. Our job is to provide a safety net for pensions. In this case, we realized we could restore the safety net—so we did," PBGC Director Joshua Gotbaum said in a news release.

The Pension Rights Center, which had pushed for the IRS to rethink its position, applauded PBGC's decision. Karen Ferguson, the center's director, wrote in a letter to Gotbaum: "Your agency's strong advocacy and intervention on behalf of the [HCO] participants . . . helped rectify an injustice that the law never intended, and illustrate your agency's strong commitment to the protection of pension plans and participants."