A Deed Well Done – Pensions Protected

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Pension participants are better off under the umbrella of federal protections

Let me brag. The Pension Rights Center, where I serve on the board, has just helped participants in a so-called "church plan" achieve justice. The Pension Rights Center did not do this alone; former employees and retirees as well as the Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC) played important roles. This is a good-guys versus bad-guys story, and the good guys won. This outcome doesn't happen often, so we should tout success when it occurs.

The Hospital Center at Orange (HCO), located in New Jersey, operated for decades as an independent non-profit hospital, not affiliated with any religious organization. It offered a defined benefit pension plan, which was covered by the Employee Retirement Income Security Act (ERISA). In addition to abiding by the legislation, the hospital paid premiums to the PBGC to insure the employee's pension benefits should the hospital's plan run out of money.

In 1998, the hospital entered into an affiliation with Cathedral Healthcare System, and four years later used this affiliation to request from the IRS a ruling that its pension was a “church plan” and thereby exempt from ERISA and from the requirement of paying premiums to the PBGC. The IRS granted the request.

In 2004, the hospital shut down. The employees were left with an underfunded plan that could only pay benefits for a few years before running out of money, and the employees were no longer eligible for the insured benefits provided by the PBGC. Since 2003, the retirees and former employees under the leadership of two nurses and former HCO vice presidents worked the courts, the press, and Congress to get the IRS to withdraw its ruling.

Enter the cavalry in the form of the Pension Rights Center. Karen Ferguson, the Center’s president and a Harvard-trained lawyer, contended that once a plan is an ERISA plan it cannot thereafter become a “church plan.” Ten years after the original opinion, the IRS rescinded its decision and the PBGC accepted the plan back under its protection.   The reversal came just in time, because the plan was about to have run out of money and would have been unable to pay benefits to more than 800 participants.

Unfortunately, this sweet victory does not solve the problem for the tens of thousands of participants in plans established by hospitals and other organizations that have always been covered under ERISA (like the HCO plan) but have always been affiliated with religious organizations (unlike HCO). Many of these employers are now seeking status as a “church plan” as a way to save money. If the IRS grants these requests, the plan participants will no longer have their benefits insured by the PBGC. Let’s hope the IRS can just say “no.”