

November 3, 1975

Dear :

This is a belated acknowledgment of your letter of June 23, 1975, concerning the exemption for certain group plans under the Employee Retirement Income Security Act of 1974. We welcome comments from interested parties for consideration in formulating regulations for the implementation of the Act.

Section 2510.3-1(1) of the final regulations issued in the Federal Register of August 15, 1975, outlines the exemption for "Certain group and group-type insurance programs". It embodies substantive changes from the section of the proposed regulations to which you referred, but we were unable to make the change in the basic requirement of employer neutrality which you suggested. The absence of employer involvement remains the key to the rationale for not treating this type of program as an employee benefit.

The employer functions involved in the proposed plan you described, assistance in preparation of claim forms and receipt of the contract in the employer's name, exceed the limited employer involvement contemplated by the exemption. The same is true for the existing program you described, since the employer chose the coverage and the insurance company, and helps employees file claims.

Sincerely,