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April 17, 1975

Dear :

This is in response to your letter asking whether a plan that provides retirement income for independent contractors of a hospital is a pension plan within the meaning of the Employee Retirement Income Security Act of 1974.

As you point out in your letter, coverage of the Act extends only to employee benefit plans. Accordingly, a plan which provides benefits to independent contractors and not to employees would not be covered. Whether an individual working for a hospital or elsewhere is an employee or an independent contractor, as you know, depends upon the circumstances of the particular case.

Your letter also asks whether ERISA applies to non-qualified deferred compensation plans in general. Title I of the Act, which is administered by the Secretary of Labor, is applicable to non-qualified plans.

Sincerely,