

June 22, 1976

Dear :

On January 9, 1975 you directed an inquiry to the Labor-Management Services Administration's Office of Employee Benefits Security regarding the preemptive effect of the Employee Retirement Income Security Act of 1974 (ERISA) on [state's] Prepaid Health Care Act). By letter of July 18, 1975, , Administrator of Pension and Welfare Benefit Programs, advised you of the Department of Labor's position that ERISA preempts and supersedes the Prepaid Health Care Act insofar as the letter is by its terms applicable to employee benefit plans subject to the coverage of ERISA.

In your more recent letter of April 2, 1976, you note that your understanding of ERISA as being a statute dealing only with pension reform, and you question the preemption of state law in an area, i.e. health care benefits, wherein the federal government does not provide benefit coverage.

The coverage of ERISA extends to employee benefit plans established or maintained by employers engaged in commerce or in any industry or activity affecting commerce, or by employee organizations representing employees as engaged. ERISA §4(a). The term "employee benefit plan" encompasses both pension plans and welfare plans within the meaning of ERISA §3(1). ERISA §514(a) preempts all state laws relating to employee benefit plans which are subject to Title I of the statute. This of course encompasses state laws relating to welfare plans.

With respect to your objection to the reasonableness of federal preemption, that issue has been resolved by Congress' enactment of ERISA §514. The purpose and design of the statutory scheme in general, and preemption in particular, is well documented in the Act and its legislative history, a portion of which is cited in the Administrator's letter.

You have, in your letter of April 2, 1976, stated your intention to require full employer compliance with the Prepaid Health Care Act until advised otherwise by your legal counsel. Requiring such compliance, with respect to any employer engaged in commerce, is in our view contrary to the provisions of Federal law.

The U.S. Department of Labor is charged with responsibility for enforcing the provisions of ERISA applicable to the matters discussed herein. As is indicated above, it is the view of this Department that the ERISA preempts the Prepaid Health Care Act insofar as the State law applies to any employee benefit plans subject to ERISA. I am hopeful that you will be able to respond promptly and in a manner consistent with our views, as expressed above.

As you have indicated your intent to consult with lawyers for the State _____, I am forwarding a copy of this letter to the State Attorney General.

Sincerely,