

**U.S. Department of Labor**

Labor-Management Services Administration  
Washington, D.C. 20216



OPINION 80-69A  
3(1)

DEC 1 1980

Ms. Jane B. Stranch  
Branstetter, Moody, and Kilgore  
200 Church Street, Fourth Floor  
Nashville, Tennessee 37201

Dear Ms. Stranch:

This is in reply to your letter dated June 23, 1980, requesting an advisory opinion regarding coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the Death Benefit Fund for the Chauffeurs, Teamsters, Warehousemen and Helpers of America, Local Union No. 519 (the Death Benefit Fund) is an employee welfare benefit plan within the meaning of ERISA section 3(1).

You represent that the Death Benefit Fund was established by the then - Local Union No. 621 of the Chauffeurs, Teamsters, Warehousemen and Helpers of America (the Local Union) for the purpose of providing money to be used for the burial expenses of members of the Local Union. There is no provision in any collective bargaining agreement requiring contributions to the Death Benefit Fund and membership is voluntary. According to the Death Benefit Fund Resolution adopted in March 1980, the Death Benefit Fund will pay \$3000 to the beneficiary of a deceased member of the Death Benefit Fund.

ERISA section 3(1) defines the term "employee welfare benefit plan" as "... any plan, fund, or program ... established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries ... benefits in the event of ... death ..."

Regulations were issued by the Department of Labor August 15, 1975, to clarify the definition of the term "employee welfare benefit plan." Regulation section 2510.3-1(g) of these regulations provides that the term "employee welfare benefit plan" does not include "... a program under which contributions are made to provide remembrances such as flowers, an obituary notice in a newspaper or a small gift on occasions such as the sickness, hospitalization, death or termination of employment of employees, or members of an employee organization, or members of their families."

The Death Benefit Fund was established by an employee organization for the purpose of providing death benefits to beneficiaries of the participants, which are among the benefits described in ERISA section 3(1). Further, it appears to the Department that the Death Benefit Fund is not merely a remembrance fund as described in regulation section 2510.3-1(g) since the Death Benefit Fund will provide a death benefit of \$3000 rather than a "small gift" on the occasion of death as the regulation describes. The Death Benefit Fund, therefore, appears to be an employee welfare benefit plan within the meaning of ERISA section 3(1).

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Employee welfare benefit plans must comply with the reporting and disclosure requirements of part 1 of ERISA title I.

Sincerely,

Ian D. Lanoff  
Administrator of Pension and Welfare Benefit Programs