

Pension Benefit Guaranty Corporation

85-24

October 3, 1985

REFERENCE:

[*1] 4061 Benefit Payments by PBGC
4261 Financial Assistance

OPINION:

This is response to your letter of * * *. In your letter, you state that the trustees of a defined benefit multiemployer pension plan are contemplating terminating the plan and providing for the payment of all accrued benefits through the purchase of commercial annuities. You ask whether, if the insurance carrier becomes insolvent, the Pension Benefit Guaranty Corporation ("PBGC") would pay the participants' benefits "to the extent allowed by law."

Under section 4061 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, the insurable event for multiemployer plans is the inability of an insolvent plan (i.e. a plan that is unable to pay benefits when due for a plan year) to pay guaranteed benefits when due. A plan that has terminated and provided for the payment of all accrued benefits through the purchase of commercial annuities is, by definition, not insolvent. Accordingly, in the situation you posit, the PBGC would not be authorized to pay benefits.

I hope the foregoing information is of assistance to you. If you have any further questions about [*2] this matter, you may call * * * at 202-254-4860.

Edward R. Mackiewicz
General Counsel