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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200448054

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

SEP 0 1 2004

In re:

Hospital =
Nursing Home =

This letter: (1) constitutes notice that a conditional waiver of the minimum funding standard has been granted for the above-named pension plan for the plan year beginning January 1, and (2) modifies our ruling letter dated July 21, 2003, in which we granted a conditional waiver for the plan year beginning January 1, .

(1) Conditional waiver for the plan year beginning January 1,

The conditional waiver has been granted in accordance with section 412(d) of the Internal Revenue Code (Code) and section 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The amount for which the waiver has been granted is the contribution that would otherwise be required to reduce the balance in the funding standard account of the plan to zero (after the payment of amounts required to amortize any outstanding prior waiver) as of the end of the plan year for which the waiver has been granted.

The Hospital is a private, not-for-profit section 501(c)(3) corporation, certified to operate beds as a general, short-term, acute care facility. The Nursing Home has beds and is also a not-for-profit corporation, and is an adopting employer of the Plan. The Hospital and Nursing Home are governed by a common Board of Directors.

The Hospital, the primary employer for the Plan, has experienced operating losses during the past years ( ), and for the first months of Factors contributing to these losses include a shift in services from an inpatient setting to an outpatient setting, which is paid at a lower rate, inadequate rate increases from the state and HMOs, turnover of physicians due to hospital and physician reimbursement rates being the lowest in the state, and having to guarantee and subsidize physician incomes due to operating in a rural community and the resulting low patient volume. The Nursing Home has also been experiencing financial hardship over the past years, with losses from operations for the fiscal years through Over the years, the Nursing Home has reimbursed the Hospital for services it provides to the Nursing Home. The Nursing Home has not been able to pay off this debt, and does not have the cash flow to make its share of a Plan contribution.

Steps taken to effect recovery have included:

- the reduction in of full-time employees;
- the Hospital employed a new director who is revamping the and exploring close to $ in added revenue streams;
- a new surgeon in partnership with a local physician group has been recruited, and a new surgeon has been recruited and is handling a growing number of cases;
- the Hospital's efforts in recruiting and doctors have resulted in their physicians' average age in primary care dropping significantly;
- the Hospital has entered into a agreement with Medical Group and is attracting patients who formerly left the area;
- the Hospital has an application pending with the Department of Health to convert medical-surgical beds into an inpatient acute rehab unit which, if approved, would have a positive impact on the Hospital's profitability;
- the Hospital has negotiated new reimbursement agreements with their HMOs for and that will improve their revenues and bottom line; and
- the Hospital is negotiating with a larger hospital to restore outpatient and inpatient services to the Hospital and community

The Plan currently covers who are not in the union. Benefits were frozen for management, and other non-union employees

on November 25, . On December 23, benefits were frozen for employees who are members of (Union), which covers most departments in the Hospital and Nursing Home, and these members joined the Union pension plan on January 1, The Hospital experienced some years of poor investment performance with respect to the investment of the pension assets. By the time the Hospital realized they were receiving below market returns and took steps to change their investment advisors, the market had started a downturn and the Hospital could not regain lost investment return. For the plan year, the current liability funded percentage is . The amortization payment for the year for the waiver has been paid.

This waiver has been granted subject to the following condition (to which you have agreed):

> The Hospital and Nursing Home will contribute the minimum funding standard to the Plan by the period described in § 412(c)(10) of the Code for the plan years beginning January 1, , and January 1, (i.e., by September 15 of the following year), including the amortization payments for the conditional waiver granted for the plan year and for the conditional waiver for the plan year.

If this condition is not satisfied, this waiver is retroactively null and void.

(2) Modification of conditional waiver granted for the plan year beginning January 1, .

Our July 21, letter is modified by replacing the condition stated in the letter by the following condition:

> The Hospital and Nursing Home will contribute the minimum funding standard to the Plan by the period described in § 412(c)(10) of the Code for the plan year beginning January 1, (i.e., by September 15 of the following year), including the amortization payments for the conditional waivers granted for the plan year and for the plan year.

Your attention is called to section 412(f) of the Code and section 304 of ERISA which describe the consequences which result in the event the plan is amended to increase benefits, to change the rate in the accrual of benefits, or to change the rate of vesting while any portion of the waived amount remains unamortized. Please note that any amendment to another plan sponsored by the Hospital (and Nursing Home) to increase the liabilities of that plan, or the establishment of a new plan, would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan year beginning January 1, the date of this letter should be entered on Schedule B (Actuarial Information). We have sent a copy of this letter to the Manager, EP Classification, in

If you have any questions concerning this letter, please contact. In any correspondence relating to this letter, please refer to SE:T:EP:RA:T:A2 as well.

Sincerely,

James E. Holland, Jr., Manager
Employee Plans Technical