

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date 6/2/97

[REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED] 6/2/97

In Reference to: [REDACTED]

Date: [REDACTED]

APR 14 1997

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(15) of the Internal Revenue Code.

The information submitted indicates that you were incorporated on October 19, 1994. You are a Managed Care Organization (MCO)/Health Maintenance Organization (HMO) organized in conformity with the requirements of the [REDACTED]

An HMO organized in compliance with [REDACTED]

You arrange a comprehensive range of health care services to be provided to enrollees of your prepaid health plans which includes primary and specialty care by physicians, and inpatient and outpatient hospital care. Health care is provided by participating physicians, hospitals, and other providers. An enrollee must choose a primary care physician from your supplied list or if not, one will assigned. Specialty care is provided upon referral by an enrollee's designated primary care physician.

Your health plans are offered for single and family subscription and for selection of either high or low option, or under plan basic, one, two, three or four. An enrollee's covered service, rate, and co-payment for service rendered depends upon the selected option or plan.

Your shares of stock are owned by physicians and you are governed by a Board of Directors consisting of physicians. Your shareholders and officers are participating physicians in your MCO/HMO operation.

In Humana Inc. v. Commissioner, 881 F.2d 247, (6th Cir. 1989), the court stated --

[R]isk distribution involves shifting to a group of individuals the identified risk of the insured. The focus ... looks more to the insurer as to whether the risk insured against can be distributed over a larger group rather than the relationship between the insurer and any single insured [I]nsurance must consist of both risk shifting and risk distribution.... [T]he definition of an insurance contract depend[s] on meeting both of the prongs of the test. Risk transfer and risk distribution are two separate and distinct prongs of the test and both must be met to create an insurance contract.

The information furnished shows that you wrote only one insurance policy in 1995 for which you received a premium of \$431. Because you wrote no other policies, we conclude that there is no risk distribution and you have not met both prongs of the LeGierse test. Therefore, pursuant to the decision in Humana, Inc., the one policy written in 1995 is not considered to be an insurance contract. It follows that you cannot be considered an insurance company within the meaning of section 501(c)(15) of the Code. Rather, we find your predominant business activity in 1995 was the investing and reinvesting of funds, like an investment company, from which you earned \$119,903. Therefore, in 1995, you do not qualify for exemption under section 501(c)(15) of the Code.

You are analogous to the organization described in Rev. Rul. 68-27 held not to qualify as an insurance company within the meaning of 1.803-3(a)(1) of the regulations.

In 1996, you reported net written premiums of \$2,097,621, an amount way beyond the statutory limitation of \$350,000 for exemption under section 501(c)(15) of the Code. You project to receive also in excess of \$350,000 in 1997, again indicating your failure to meet the statutory requirements for exemption under section 501(c)(15) of the Code in future operations.

Accordingly, we conclude that you do not qualify for exemption under section 501(c)(15) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your

views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days of the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

You will expedite our receipt of your protest statement by using the following address on the envelope:

[REDACTED]
1111 Constitution Ave.
Washington, D.C. 20224

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the Midstates Key District Office, which is located in Dallas, Texas. Thereafter, any question about your federal income status should be addressed to that office.

Sincerely,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
Technical Branch 3

copy: [REDACTED]
[REDACTED]

copy: [REDACTED]
Attn: Chief, EP/EO Division