

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box: 2508
Cincinnati, OH 45201

Date: NOV 24 1989

Employer Identification Number:
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not

[REDACTED]

one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[REDACTED]

[REDACTED]
District Director

Enclosures: 3

Enclosure I
Reasons for proposed denial of exempt status

Information submitted with your application shows that you were incorporated [REDACTED]. Your organization is an independent practice association of physicians. Your Articles of Incorporation state that your purposes are, in part:

1. To arrange for the provision of medical services by physicians and oral surgeons through contractual arrangements with one or more health maintenance organizations, preferred provider organizations, competitive medical plans, insurers or other third party payers;
2. To provide a forum for the exchange of medical ideas and information among members; and
3. To allow for peer review of the health care activities of its members.

Your Articles of Incorporation also state that members shall consist of those individuals signing a membership agreement in the form prescribed by the Board of Directors. Each individual signing such membership agreement must be a licensed physician or oral surgeon and shall continue as a member until the happening of any one or more of the following events, which are stated in part:

- a. The member or the member's license to practice medicine or oral surgery in the State of [REDACTED] is revoked, suspended, placed on probation, or restricted in any way;
- b. The member fails to qualify under or to provide adequate proof of professional (medical and malpractice) liability insurance coverage in at least the minimum amounts specified under the [REDACTED] Medical Malpractice Act, as amended from time to time;
- c. The member, within thirty days following a request from you, fails to enter into contractual relations with you, or any health care plan affiliated with you by contract or otherwise, for the provision of medical services, directly or indirectly, to enrollees of one or more designated health care plans, on such terms as you may require; or
- d. Any contract calling for the provision of medical services by the member to patients of any health care plan affiliated with you by contract or otherwise, is terminated or not renewed.

Your Board of Directors consists of members of your organization.

[REDACTED]

Your application for exemption indicates that you were formed in order to provide local physicians an organization which could arrange contractual agreements with insurers or other third party payers. You were also organized so that physicians could exchange medical ideas and conduct peer reviews of your members. You stated that the local community will benefit from your organization since the physicians will be able to provide more organized insurance procedures and patients will benefit from updated medical ideas and peer review. In [REDACTED] cash totaling \$ [REDACTED] was transferred to you from [REDACTED], a partnership, which was dissolved when the partners no longer wanted to operate as a partnership. You indicated that you do not conduct any activities which were conducted by [REDACTED].

You stated that your organization is the health care provider for [REDACTED], a health maintenance organization, and that you do not arrange for the provision of medical services. Medical services are arranged for by direct contract between the physician and [REDACTED].

A copy of your membership agreement indicates that upon signing the membership agreement and payment of membership dues of \$ [REDACTED], a physician who meets your membership requirements automatically becomes a member of your organization. When your organization enters into contractual relations with a particular health care plan, the physician shall, if requested by you, enter into a participating provider agreement with you and/or such health care plan agreeing to, among other things, quality assurance, utilization review, billing procedures, compensation determination, accessibility and continuity of care, insurance requirement, and/or such other provisions as may be determined by your Board of Directors. The members shall be independent contractors of third party health care plans affiliated with your organization. for the provision of medical services to enrollees of any such plan. The members must maintain credentialing criteria adopted by your organization and must agree to become and remain a participating provider of medical services with respect to any such third party plan.

Membership dues, fees and assessments are the only source of financial support anticipated. Expenditures consist of payments for liability insurance for your board members, attorney fees, and accountant fees.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It

is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Revenue Ruling 68-264, 1968-1 C.B. 264 and Revenue Ruling 68-265, 1968-1 C.B. 265, hold that an activity that serves as a convenience or economy to members in the operation of their businesses is a particular service of the type ordinarily carried on for profit.

Revenue Ruling 71-175, 1971-1 C.B. 157, holds that a nonprofit organization that has as its principal activity the operation of a telephone-answering service for member doctors is not exempt under section 501(c)(6) of the Code. By providing a telephone-answering service the organization relieved the individual members of the necessity of securing this service commercially, resulting in a convenience or economy in the conduct of the medical practice of its individual members. Therefore, the organization was rendering particular services for individual persons as distinguished from the improvement of business conditions in the medical profession and public health area generally. Further, by operating the telephone-answering service, the organization was engaged in a regular business of a kind ordinarily carried on for profit.

Revenue Ruling 86-98, 1986-2 C.B. 74, involves a nonprofit membership corporation ("M") which is an individual practice association. M's stated purpose was to arrange for the delivery of health services through written agreements negotiated with health maintenance organizations (HMOs). M's membership was limited to licensed physicians who were engaged in the active practice of medicine and who were members of a specified county medical society. The activities of M were managed by an executive committee which was elected by the membership of M. All members were required to enter into written service contracts with M. M's primary activities were to serve as a bargaining agent for its members in dealing with HMOs, and to perform the administrative claims services required by the agreements negotiated with the HMOs. The main functions of M were to provide an available pool of physicians who would abide by its fee schedule when rendering medical services to the subscribers of an HMO, and to provide its members with access to a large group of patients, the HMO subscribers, who generally may not be referred to nonmember-physicians. M negotiated contracts on behalf of its members with various HMOs. M was akin to a collective bargaining representative negotiating on behalf of its member-physicians with HMOs. It was determined that M was operated in a manner similar to organizations carried on for profit, and its primary beneficiaries were its member-physicians rather than the community as a whole. M was primarily performing particular services for its members. Thus, it was rendering particular services for individual persons as distinguished from the improvement of

Enclosure I con't

business conditions in the medical profession and public health area generally. Membership was restricted to physicians who were subject to M's written service contract. Thus, M did not better the conditions for all physicians in a particular community, but, instead, was devoted to maximizing fees for its members. Therefore, it was determined that M was not operated as a business league within the meaning of section 1.501(c)(6)-1 of the Regulations.

Based on the available information, it is our opinion that you are similar to M in Revenue Ruling 86-98. Like M, you are an independent practice association of physicians. You arrange for the delivery of health services through written agreements negotiated with HMOs. You enter into contracts with HMOs, preferred provider organizations, competitive medical plans, insurers or other third party payers. Your members are required to be licensed physicians, they are required to enter into contractual relations with you or any health care plan affiliated with you by contract or otherwise to provide medical services to enrollees of such health care plans. If a member fails to enter into contractual relations with you, their membership is terminated and they are no longer a beneficiary of the services you provide. Thus, like M, your primary activity is serving as a bargaining agent for your members in dealing with HMOs, preferred provider organizations, competitive medical plans, insurers or other third party payers. Therefore, you are operated in a manner similar to organizations carried on for profit. You are primarily performing particular services for your members as distinguished from the improvement of business conditions in the medical profession and the public health area generally.

Accordingly, you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(6) of the Code.