

JAN 5 1961

The Director of Unemployment and Sickness Insurance

The General Counsel

161-6

Kahului Railroad Company's "Wage Supplementation Plan"

The wage supplementation plan set out in the three page "Exhibit B" from the Kahului Railroad Company's Agreement with the ILWU, a copy of which you sent me with your memorandum dated December 8, 1960, is not a nongovernmental plan for unemployment insurance. It is basically a guaranteed wage plan rather than an unemployment insurance plan. The term "wage supplementation" is used in the descriptive title and in the body of the plan, and the plan was described in the letter dated September 6, 1960, from the Railroad Company's Mr. J. M. Murray to the regional adjudicator at San Francisco, as a "Wage supplementation plan which provides a partial makeup of income lost through reduced work opportunity". The plan does not purport to supplement unemployment benefits; it disregards eligibility for, or receipt of, unemployment insurance benefits except to provide, in effect, that any such benefits which may be received shall be deducted from the wage supplementation payments. Moreover, it provides that the plan is inapplicable if the employee performs no work or is terminated during the quarter.

The Company should be advised that, for the reasons indicated above, payments under the wage supplementation plan will not be considered to be payments received pursuant to a nongovernmental plan for unemployment insurance. The Company has requested advice as to how its plan could be modified to make it a nongovernmental plan for unemployment insurance, if it is not already acceptable as such. I suggest that you send the Company a copy of Article II of the Agreement between the Boston and Maine Railroad and the Clerks' Brotherhood, which was the subject of your letter dated April 14, 1959, to Vice President Pickard of that road, to serve as an example of a collective bargaining plan which has been held to be for unemployment insurance. It should be made clear that this is furnished merely as an example, and that it might be possible for us to hold that some plan set up quite differently is a plan for unemployment insurance.

The file you sent with your memorandum is returned herewith.

Attachment

DMG:ps

Myles F. Gibbons
General Counsel