

## Pension Benefit Guaranty Corporation

## § 4281.46

shall contain the following information:

- (1) The name of the plan.
- (2) The date the notice of insolvency was issued and the insolvency year identified in the notice.
- (3) The plan year to which the annual update pertains and the plan sponsor's determination whether the plan may be insolvent in that year.
- (4) If the plan may be insolvent for the plan year, a statement that benefits above the amount that can be paid from available resources or the level guaranteed by the PBGC, whichever is greater, will be suspended during the insolvency year, with a brief explanation of which benefits are guaranteed by the PBGC.
- (5) If the plan will not be insolvent for the plan year, a statement that full nonforfeitable benefits under the plan will be paid.
- (6) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

### § 4281.45 Notices of insolvency benefit level.

(a) *Requirement of notices.* For each insolvency year, the plan sponsor shall issue a notice of insolvency benefit level to the PBGC and to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year. The notices shall be delivered in the manner and within the time prescribed in this section and shall contain the information described in § 4281.46.

(b) *When delivered.* The plan sponsor shall mail or otherwise deliver the notices of insolvency benefit level no later than 60 days before the beginning of the insolvency year. A plan sponsor that determines under § 4041A.25(b) that the plan is or may be insolvent for a plan year shall mail or otherwise deliver the notices of insolvency benefit level by the later of 60 days before the beginning of the insolvency year or 60 days after the date of the plan sponsor's determination under § 4041A.25(b).

(c) *Method of issuance.* The notices of insolvency benefit level shall be delivered to the PBGC and to plan participants and beneficiaries in pay status or

reasonably expected to enter pay status during the insolvency year. The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the notice of insolvency benefit levels to interested parties.

[61 FR 34118, July 1, 1996, as amended at 68 FR 61458, Oct. 28, 2003]

### § 4281.46 Contents of notices of insolvency benefit level.

(a) *Notice to the PBGC.* A notice of insolvency benefit level required by § 4281.45(a) to be filed with the PBGC shall contain the information specified in § 4281.44(a)(1) through (a)(5) and (a)(7) through (a)(11) and:

- (1) The insolvency year for which the notice is being filed.
- (2) The amount of financial assistance, if any, requested from the PBGC. (When financial assistance is requested, the plan sponsor shall submit an application in accordance with § 4281.47.)

(3) A statement indicating whether the notice of insolvency benefit level is the result of an insolvency determination under § 4041A.25(a) or (b).

(4) A certification, signed by the plan sponsor or its duly authorized representative, that a notice of insolvency benefit level has been sent to all plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year, in accordance with this part.

(b) *Notice to participants in or entering pay status.* A notice of insolvency benefit level required by § 4281.45(a) to be delivered to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given, shall contain the following information:

- (1) The name of the plan.
- (2) The insolvency year for which the notice is being sent.
- (3) The monthly benefit that the participant or beneficiary may expect to receive during the insolvency year.

(4) A statement that in subsequent plan years, depending on the plan's available resources, this benefit level may be increased or decreased but not below the level guaranteed by the

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PBGC, and that the participant or beneficiary will be notified in advance of the new benefit level if it is less than the participant's full nonforfeitable benefit under the plan.

(5) The amount of the participant's or beneficiary's monthly nonforfeitable benefit under the plan.

(6) The amount of the participant's or beneficiary's monthly benefit that is guaranteed by the PBGC.

(7) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

**§ 4281.47 Application for financial assistance.**

(a) *General.* If the plan sponsor determines that the plan's resource benefit level for an insolvency year is below the level of benefits guaranteed by PBGC or that the plan will be unable to pay guaranteed benefits when due for any month during the year, the plan sponsor shall apply to the PBGC for financial assistance pursuant to section 4261 of ERISA. The application shall be filed within the time prescribed in paragraph (b) of this section. When the resource benefit level is below the guarantee level, the application shall contain the information set forth in paragraph (c) of this section. When the plan is unable to pay guaranteed benefits for any month, the application shall contain the information set forth in paragraph (d) of this section.

(b) *When to apply.* When the plan sponsor determines a resource benefit level that is less than guaranteed benefits, it shall apply for financial assistance at the same time that it submits its notice of insolvency benefit level pursuant to § 4281.45. When the plan sponsor determines an inability to pay guaranteed benefits for any month, it shall apply for financial assistance

within 15 days after making that determination.

(c) *Contents of application—resource benefit level below level of guaranteed benefits.* A plan sponsor applying for financial assistance because the plan's resource benefit level is below the level of guaranteed benefits shall file an application that includes the information specified in § 4281.44 (a)(1) through (a)(5) and:

(1) The insolvency year for which the application is being filed.

(2) A participant data schedule showing each participant and beneficiary in pay status or reasonably expected to enter pay status during the year for which financial assistance is requested, listing for each—

- (i) Name;
- (ii) Sex;
- (iii) Date of birth;
- (iv) Credited service;
- (v) Vested accrued monthly benefit;
- (vi) Monthly benefit guaranteed by PBGC;
- (vii) Benefit commencement date; and
- (viii) Type of benefit.

(d) *Contents of application—unable to pay guaranteed benefits for any month.* A plan sponsor applying for financial assistance because the plan is unable to pay guaranteed benefits for any month shall file an application that includes the data described in § 4281.44 (a)(1) through (a)(5), the month for which financial assistance is requested, and the plan's available resources and guaranteed benefits payable in that month. The participant data schedule described in paragraph (c)(2) of this section shall be submitted upon the request of the PBGC.

(e) *Additional information.* The PBGC may request any additional information that it needs to calculate or verify the amount of financial assistance necessary as part of the conditions of granting financial assistance pursuant to section 4261 of ERISA.