§ 4050.9 Annuity or elective lump sum—living missing participant.

This section applies to a missing participant whose designated benefit was determined under § 4050.5(a)(3) (no lump sum) or § 4050.5(a)(4) (elective lump sum) and who is living on the date as of which the PBGC begins paying benefits.

(a) General rule—(1) Benefit paid. The PBGC will pay a single sum benefit equal to the designated benefit plus interest at the designated benefit interest rate from the deemed distribution date to the date on which the PBGC pays the benefit.

(2) Payee. Payment will be made—
   (i) To the missing participant, if located;
   (ii) If the missing participant died before the deemed distribution date, and if the plan so provides, to the missing participant’s beneficiary or estate; or
   (iii) If the missing participant dies on or after the deemed distribution date, to the missing participant’s estate.

(b) De minimis annuity alternative. If the guaranteed benefit form for a missing participant whose designated benefit was determined under § 4050.5(a)(2) (de minimis lump sum) (or the guaranteed benefit form for a beneficiary of such a missing participant) would provide for the election of an annuity, the missing participant (or the beneficiary) may elect to receive an annuity. If such an election is made—
   (1) The PBGC will pay the benefit in the elected guaranteed benefit form, beginning on the annuity starting date elected by the missing participant (which may not be before the later of the date of the election or the earliest date on which the missing participant could have begun receiving benefits under the plan); and
   (2) The benefit paid will be actuarially equivalent to the unloaded designated benefit, i.e., each monthly (or other periodic) benefit payment will equal the unloaded designated benefit divided by the present value (determined as of the deemed distribution date under the missing participant annuity assumptions) of a $1 monthly (or other periodic) annuity beginning on the annuity starting date.

(2) Amount of benefit. The PBGC will pay the monthly (or other periodic) amount of the pay status benefit, plus a lump sum equal to the payments the missing participant would have received under the plan, plus interest on the missed payments (at the plan rate up to the deemed distribution date and thereafter at the designated benefit interest rate) to the date as of which the PBGC pays the lump sum.

(c) Payment of lump sum. If a missing participant whose benefit was determined under § 4050.5(a)(4) (elective lump sum) so elects, the PBGC will pay in the form of a single sum. This election is not effective unless the missing participant’s spouse consents (if such consent would be required under section 205 of ERISA). The single sum equals...
the designated benefit plus interest (at
the designated benefit interest rate)
from the deemed distribution date to
the date as of which the PBGC pays the
benefit.

§ 4050.10 Annuity or elective lump
sum—beneficiary of deceased miss-
ning participant.

This section applies to a beneficiary
of a deceased missing participant
whose designated benefit was deter-
mined under §4050.5(a)(3) (no lump sum)
or §4050.5(a)(4) (elective lump sum) and
whose benefit is not payable under
§4050.9.

(a) If deceased missing participant’s
benefit was not in pay status as of the
deemed distribution date. The PBGC will
pay a benefit with respect to a de-
ceased missing participant whose ben-
efit was not in pay status as of the
designated distribution date as follows.

(1) General rule. (i) Beneficiary. The
PBGC will pay a benefit to the sur-
viving spouse of a missing participant
who was a participant (unless the sur-
viving spouse has properly waived a
benefit in accordance with section 205
of ERISA).

(ii) Form and amount of benefit. The
PBGC will pay the survivor benefit in
the form of a single life annuity. Each
monthly (or other periodic) benefit
payment will equal 50 percent of the
quotient that results when the un-
loaded designated benefit is divided by
the present value (determined as of the
deemed distribution date under the
missing participant annuity assump-
tions, and assuming that the missing
participant survived to the deemed dis-
tribution date) of a $1 monthly (or
other periodic) joint and 50 percent sur-
vivor annuity beginning on the annuity
starting date, under which reduced
payments (at the 50 percent level) are
made only after the death of the miss-
ing participant during the life of the
spouse (and not after the death of the
spouse during the missing participant’s
life).

(iii) Time of benefit. The PBGC will
pay the survivor benefit beginning at
the time elected by the surviving
spouse which may not be before the
later of the date of the election or the
earliest date on which the surviving
spouse could have begun receiving ben-
efits under the plan).

(2) If missing participant died before
deemed distribution date. Notwith-
standing the provisions of paragraph
(a)(1) of this section, if a beneficiary of
a missing participant who died before
the deemed distribution date estab-
lishes to the PBGC’s satisfaction that
he or she is the proper beneficiary or
would have received benefits under the
plan in a form, at a time, or in an
amount different from the benefit paid
under paragraph (a)(1)(ii) or (a)(1)(iii)
of this section, the PBGC will make
payments in accordance with the facts
so established, but only in the guaran-
teed benefit form.

(b) If deceased missing participant’s
benefit was in pay status as of the deemed
distribution date. The PBGC will pay a
benefit with respect to a deceased
missing participant whose benefit was
in pay status as of the deemed distri-
bution date as follows.

(1) Beneficiary. The PBGC will pay a
benefit to the beneficiary (if any) of
the benefit that was in pay status as of
the deemed distribution date.

(2) Form and amount of benefit. The
PBGC will pay a monthly (or other
periodic) amount equal to the monthly
(or other periodic) amount, if any, that
the beneficiary would have received
under the form of payment in effect,
plus a lump sum payment equal to the
payments the beneficiary would have
received under the plan after the miss-
ing participant’s death and before the
date as of which the benefit is paid
under paragraph (b)(4) of this section,