

## § 4022.6

cease or be suspended upon the occurrence of any specified condition does not automatically make that benefit forfeitable. In each such case the PBGC will determine whether the benefit is forfeitable.

(c) A benefit guaranteed under § 4022.6 shall not be considered forfeitable solely because the plan provides that upon recovery of the participant the benefit will cease.

### § 4022.6 Annuity payable for total disability.

(a) Except as otherwise provided in this section, an annuity which is payable (or would be payable after a waiting period described in the plan, whether or not the participant is in receipt of other benefits during such waiting period), under the terms of a plan on account of the total and permanent disability of a participant which is expected to last for the life of the participant and which began on or before the termination date is considered to be a pension benefit.

(b) In any case in which the PBGC determines that the standards for determining such total and permanent disability under a plan were unreasonable, or were modified in anticipation of termination of the plan, the disability benefits payable to a participant under such standard shall not be guaranteed unless the participant meets the standards of the Social Security Act and the regulations promulgated thereunder for determining total disability.

(c) For the purpose of this section, a participant may be required, upon the request of the PBGC, to submit to an examination or to submit proof of continued total and permanent disability. If the PBGC finds that a participant is no longer so disabled, it may suspend, modify, or discontinue the payment of the disability benefit.

(d) *PPA 2006 bankruptcy termination.* In a PPA 2006 bankruptcy termination, “bankruptcy filing date” is substituted for “termination date” in paragraph (a) of this section.

[61 FR 34028, July 1, 1996, as amended at 67 FR 16954, Apr. 8, 2002; 76 FR 34602, June 14, 2011]

## 29 CFR Ch. XL (7–1–25 Edition)

### § 4022.7 Benefits payable in a lump sum.

(a) *Alternative benefit.* Except as provided in this part, PBGC pays benefits only in annuity form. If a benefit that is guaranteed under this part is payable in a lump sum or substantially so under the terms of the plan, including an option elected under the plan by the participant before plan trusteeship, PBGC will not guarantee the benefit in such form. Instead, PBGC will guarantee the alternative benefit, if any, in the plan which provides for the payment of equal periodic installments for the life of the recipient. If the plan does not provide such an annuity, PBGC will guarantee an actuarially equivalent life annuity.

(b) *Payment by PBGC—(1) Payment in lump sum.* Notwithstanding paragraph (a) of this section:

(i) *In general.* If the lump-sum value of a benefit (or of an estimated benefit) payable by PBGC and calculated as of the termination date does not exceed the dollar amount specified in section 203(e)(1) of ERISA in effect as of the termination date and the benefit is not yet in pay status as of the date PBGC becomes trustee, the benefit (or estimated benefit) may be paid in a lump sum.

(ii) *Annuity option.* If PBGC would otherwise make a lump-sum payment in accordance with paragraph (b)(1)(i) of this section and the monthly benefit (or the estimated monthly benefit) is equal to or greater than \$25 (at normal retirement age and in the normal form for an unmarried participant), PBGC will provide the option to receive the benefit in the form of an annuity.

(iii) *Deceased participants after plan termination.* If the lump-sum value of a participant’s benefit calculated as of the termination date does not exceed the dollar amount specified in section 203(e)(1) of ERISA in effect as of the termination date, and the participant dies after the plan’s termination date and before the benefit is in pay status, PBGC will treat the benefit as owed to the participant at the time of death and the rules in subpart F of this part apply.

(iv) *Payment of de minimis QPSA as lump sum or annuity.* If the lump-sum