

Pension Benefit Guaranty Corporation

90-5

1990 PBGC LEXIS 8

October 11, 1990

REFERENCE:

[*1] 29 CFR 2613.8(b)(1)
29 CFR 2619.2
29 CFR 2619.43

OPINION:

I write in response to your letter concerning the decision of the Pension Benefit Guaranty Corporation (the "PBGC") to pay lump sums to certain participants in the * * *

Pension Plan (the "Plan") in satisfaction of their statutorily guaranteed benefits. As Deputy Executive Director Diane E. Burkley indicated to you in her March 19, 1990 letter, it is the PBGC's policy, once it is appointed statutory trustee of a terminated, insufficient plan, to pay lump sums to participants entitled to small benefits.

The PBGC's lump sum policy is based on the discretionary authority contained in 29 C.F.R. § 2613.8(b)(1). That section currently states, "in any case in which the value of a guaranteed benefit payable by the PBGC is \$ 3500 or less, the total value of the guaranteed benefit may be paid in a single installment." It is PBGC's interpretation of our regulation that this authority is not limited to cases where a plan specifically authorizes lump sum payments.

In your letter, you ask how the PBGC will calculate the the value of the benefits payable in the form of a lump sum. In accordance with our regulation on the Valuation of Plan [*2] Benefits in Single-Employer Plans, 29 C.F.R. Part 2619, the values will be determined as of the date of termination, 29 C.F.R. § 2619.2 and 2619.43, using the actuarial assumptions then applicable to terminated, trustee pension plans. See, 29 C.F.R. § 2619.41 et seq. and 29 C.F.R. § 2619.61 et seq.

As you note in your letter, the PBGC's lump sum policy initially applied to benefits which had a present value of \$ 1750 or less. Pursuant to an amendment of 29 C.F.R. § 2613.8(b)(1), which was effective January 14, 1988, this amount was raised to \$ 3500 for initial benefit determinations made by the PBGC after that date. See, 52 F.R. 47561 (December 15, 1987); PBGC Memorandum dated January 26, 1988. n1

n1 A copy of this memorandum, and the February 19, 1981 memorandum referred to later in this letter, are among the documents related to our lump sum policy that were provided to you by E. William Fitzgerald, PBGC Disclosure Officer, on April 4, 1990.

The PBGC intends to begin issuing initial determination letters to Plan participants in the near future. Accordingly, the PBGC will pay lump sums to the approximately 337 participants who were entitled, on the date of [*3] termination (November 1, 1982), to deferred vested benefits with a present value of \$ 3500 or less, although under our policy before January 14, 1988, only those participants with benefits valued at \$ 1750 or less would have received lump sum payments. The present value of the benefits will be determined using the interest rate promulgated by the PBGC for the November 1, 1982 termination date -- a 10.5% immediate rate -- rather than the interest rate in effect at the time of lump sums are paid -- currently a 7.5% immediate rate. See, Appendix B to 29 C.F.R. Part 2619. n2

n2 The mortality table and expected retirement age tables used by the PBGC to value these benefits are contained, respectively, in Appendix C and D to 29 C.F.R. Part 2619.

The PBGC will credit interest on the lump sum amount, from the date of termination to the date of payment, based on an index created by the PBGC for this purpose. See PBGC Memorandum dated February 19, 1981. n3 If a participant dies between the date of termination and the date of payment, the lump sum will be paid to his or her estate.

n3 For example, using this index and assuming a November 1990 distribution, the amount paid to Plan participants will equal the present value of their benefits as of the date of termination multiplied by 1.9240. [*4]

The Plan terminated before the effective date of Retirement Equity Act's preretirement survivor annuity provisions. In regard to such plans, the PBGC generally provides survivor benefits to the spouse of a deferred vested participant, who is entitled to benefits with a present value in excess of \$ 3500, if the participant had reached the earliest possible date for payment of benefits when he or she left covered employment, but died before receiving any benefits.

My apologies for this delayed response, but I hope this now answers your questions. If you have any further questions, please contact Stephen Schreiber, in our General Counsel's Office, at (202) 778-8824.

James B. Lockhart III
Executive Director