

# YOUR RIGHT TO APPEAL



## YOUR RIGHT TO APPEAL

You have the right to appeal PBGC's formal determination of your benefit if you can provide a specific reason why the determination is wrong. However, if you simply have a question about your benefit or how it was calculated, you should call PBGC's Customer Contact Center at **1-800-400-7242** for an explanation instead of filing an appeal. (For TTY/TDD users, call the Federal Relay Service at 1-800-877-8339 and ask to be connected to 1-800-400-7242.) But remember, you have **45 calendar days** from the date of the formal determination letter to submit an appeal; if you need more time to prepare your appeal before that 45-calendar-day limit expires, you can request an extension from PBGC's Appeals Board, as described below.

For your convenience, PBGC has optional forms you may use to file an appeal (Form 724) or request an extension of time to file an appeal (Form 723). These forms are available from PBGC's Customer Contact Center or at [www.pbgc.gov/appealforms](http://www.pbgc.gov/appealforms).

**How to File an Appeal.** Send your appeal to PBGC's Appeals Board. Your appeal **must**:

- Be in writing;
- Be clearly marked as an appeal;
- Specifically explain why PBGC's determination is wrong and the result you are seeking;
- Describe the relevant information you believe is known by PBGC and include copies of documents that provide additional information that the Appeals

Board should consider. It is important to include copies of any documentation that supports your claim; and

- Be postmarked by the U.S. Postal service, FAXed, e-mailed or delivered directly to the Appeals Board **no later than 45 calendar days** after the date of PBGC's formal determination letter.

Or you can use PBGC's optional Form 724, *Appeal of a PBGC Benefit Determination*. If you use the optional form, you must answer all questions and sign and deliver the form within the time noted above.

**You May Request Additional Time to File Your Appeal.** If you need more time to file your appeal, you may ask the Appeals Board for an extension of the filing deadline. The appeal period will be suspended as of the date you file your request for an extension.

Your request for more time **must** be in writing and must state why you need more time to file your appeal and how much more time you will need. You can use PBGC's optional Form 723, *Request for Additional Time to File an Appeal of a PBGC Benefit Determination*. If you use the optional form, you must answer all questions and sign the form. *This request must be postmarked by the U.S. Postal Service, FAXed, e-mailed or delivered to the Appeals Board no later than 45 calendar days after the date of PBGC's formal determination.*

The Appeals Board will grant an extension of time only upon a showing of good cause. If the Board denies the extension, the 45-calendar-day appeal period will resume as of the date of the denial.

**Other Information You Should Include.** You should include in your appeal or request for an extension of the filing deadline:

- Your Social Security Number;
- The name of your pension plan;
- The PBGC case number assigned to your plan (this can be found at the top of your formal determination letter);
- Your daytime telephone number (including the area code);
- The name and Social Security Number of the plan participant, if you are not the participant;
- A list of any information requests for which you are awaiting PBGC's response; and
- If possible, a copy of the PBGC formal determination letter and benefit statement.

**Where to Send Appeals and Requests for Additional Time to File an Appeal.** Send your appeal or request for a filing extension to:

**Pension Benefit Guaranty Corporation  
ATTN: Appeals Board  
Post Office Box 151750  
Alexandria, VA 22315-1750**

You may FAX your appeal or request for a filing extension to the Appeals Board at 202/326-4095 or 202/326-4091, or send it by e-mail to [appeals@pbgc.gov](mailto:appeals@pbgc.gov). The Appeals Board will acknowledge your correspondence within one week of receipt.

## Where to Get Information or Filing

**Assistance.** If you have questions about how to file an appeal or request a filing extension, or would like information about your appeal, you may call the Appeals Board, toll-free, at **1-800-400-7242**, or write to the Board at the above address.

**You Do Not Need an Attorney to Represent You.** You may act on your own behalf during the appeals process, or you may have someone else represent you. You do not need an attorney to file an appeal. However, if you do select a representative and that person is not an attorney, you must send the Appeals Board a notarized **power of attorney** signed by you that specifically states the scope of the representative's authority to act for you.

**Information to Support Your Appeal; Hearings.** The Appeals Board decides appeals based on PBGC records and the information you submit. Therefore, it is important that your written appeal include all the facts and documents you wish the Appeals Board to consider. The Board may ask you for additional information. If you request a hearing or an opportunity to present witnesses, the Board will decide whether it is needed to resolve your case. The Board's past experience indicates that hearings or witnesses rarely are needed since appeals ordinarily can be decided based on written information.

**You Must Appeal Before You Can Go to Court.** Review by the Appeals Board is the final step in PBGC's administrative review process. If you do not appeal PBGC's formal determination to the Appeals Board, you may not be able to obtain review by a court of law.

**When PBGC's Benefit Determination Will Go into Effect.** If you do not appeal, PBGC's formal benefit determination will take effect when the 45-calendar-day appeal period ends. If you do appeal, the determination will not take effect until the Appeals Board issues its decision. PBGC then will make any changes to your benefit ordered by the Appeals Board.

After your benefit determination has taken effect, PBGC may change your benefit if it discovers an error, but only under certain circumstances. PBGC will always change your benefit if correcting the error will **increase** your benefit. PBGC will **decrease** your monthly benefit only if the error is a monthly amount of \$5.00 or more and usually only if the error is discovered within two years after the date of the formal determination.

**Reference.** PBGC's "Rules for Administrative Review of Agency Decisions" can be found in Title 29, Code of Federal Regulations, Part 4003. These rules are available on the Internet at:

[www.pbgc.gov/laws/lawsregs/code/cfr4003.htm](http://www.pbgc.gov/laws/lawsregs/code/cfr4003.htm)

## *Checklist*

- Have you addressed your letter and envelope to the Appeals Board?

**Pension Benefit Guaranty Corporation**  
**ATTN: Appeals Board**  
**Post Office Box 151750**  
**Alexandria, VA 22315-1750**

- Does your letter include your name, address, Social Security Number, daytime telephone number, plan name, and PBGC case number?
- Does your letter clearly state that it is an **appeal** or **request for an extension of time** to appeal?
- Does your letter specifically explain why PBGC's determination is wrong or why you are requesting an extension of time?
- Have you included all information that applies to your appeal or request for an extension of time, including a copy of your PBGC formal determination letter and benefit statement?
- Have you included a notarized power of attorney if you are being represented by someone other than a lawyer?
- Is your appeal or request for more time postmarked, FAXed, e-mailed, or delivered to the Appeals Board **no later than 45 calendar days** after the date of PBGC's formal determination letter?
- If you used the optional forms, did you answer all of the questions and sign the form?