

Justification for No Material or Nonsubstantive Change to Currently-Approved Collection

AGENCY: Pension Benefit Guaranty Corporation (PBGC)
TITLE: (29 CFR part 4003)
STATUS: OMB control number 1212-0061; expires July 31, 2025
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The Pension Benefit Guaranty Corporation (PBGC) is making changes that are not material to a brochure that PBGC currently includes with the formal determination letter that it sends to each participant after it completes its review of a terminated pension plan. The brochure, “Your Right to Appeal,” informs participants in PBGC-trusted pension plans of their administrative appeal rights.

PBGC’s regulation at 29 CFR part 4003, covered under OMB Control No. 1212-0061 (expiring 7/31/2025), describes certain types of initial determinations that are subject to administrative appeals in subpart D of the regulation. Subpart D of the regulation prescribes rules on who may file appeals, when and where to file appeals, contents of appeals, and other matters relating to appeals. In addition, PBGC has developed Optional Form 724 for filing appeals and Optional Form 723 for requesting extensions of time to appeal that also refer potential appellants to the brochure. Both forms were part of the information collection request approved under OMB Control No. 1212-0061. This brochure, written in a participant-friendly format, does not change any of the information provided in the regulation. These changes are intended only for purposes of clarity and to make other editorial changes, and do not add any new burden for participants.

Changes made to the 2022 version of the brochure include:

- Updating the information for contacting telecommunication relay services for persons that are deaf or hard of hearing or have a speech disability.
- Describing more plainly the deadline for filing an appeal.
- Updating contact phone numbers for the Appeals Board.
- Deleting Social Security Number (SSN) from the list of information that should be included in an appeal and a request for an extension of time to appeal because currently approved Form 724 and 723 do not request an appellant’s SSN.
- Making other editorial changes to help clarify how to file an appeal.

The following markup shows the added language in yellow highlighting and the deleted language in strike-through:

Your right to appeal

You have the right to appeal PBGC’s determination of your benefit (“benefit determination”). To file an appeal, you must provide a specific reason why the benefit determination is wrong. If you simply have a question about your benefit or how it was calculated, you should ask for an

explanation, instead of filing an appeal, by calling PBGC's Customer Contact Center at 1-800-400-7242. (For TTY/TDD users, call the Federal Relay Service at 1-800-877-8339 and ask to be connected to 1-800-400-7242.) **If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services. Remember, you have 45 calendar days from the date of the benefit determination letter to file an appeal. If you need more time to prepare your appeal before the 45-calendar-day limit expires, you may request an extension from PBGC's Appeals Board, as explained below. If the 45th calendar day from the benefit determination falls on a federal holiday or a weekend, the first non-federal holiday weekday following the 45th calendar day will be substituted as the deadline. For example, if the 45th calendar day falls on a Saturday and the following Monday is not a federal holiday, then that Monday, the 47th calendar day following the date of the benefit determination, will be the filing deadline. Note that this rule applies for every use of "45 calendar days" in this brochure. If you need more time to prepare your appeal before the 45-calendar-day limit expires, you may request an extension from PBGC's Appeals Board, as explained below.**

How to file an appeal

An appeal must be ~~in writing~~ **submitted directly to PBGC's Appeals Board**. PBGC offers a convenient optional form you may use to file an appeal (Form 724 – *Appeal of a PBGC Benefit Determination*). ~~Form 724 is available from~~ **can be obtained** from PBGC's Customer Contact Center, or at ~~printed/downloaded directly from~~ **www.pbgc.gov/documents/e724.pdf**. ~~You should answer all questions on the form, and sign and deliver it within 45 calendar days of the date of your benefit determination letter. Submit your appeal to PBGC's Appeals Board.~~

Your appeal must:

- Be in writing;
- Be clearly marked as an appeal;
- **Include a s**Specifically explanation why PBGC's **benefit** determination is ~~wrong~~ **incorrect** and a **statement of** the result you are seeking;
- ~~Describe the~~ **Provide** information you believe is relevant to your appeal. **You may** ~~include~~ **include** copies of documents that support your appeal; ~~and provide any additional information that the Appeals Board should consider;~~ and
- Be postmarked by the U.S. Postal Service, faxed, emailed, or delivered directly to the Appeals Board no later than 45 calendar days after the date of ~~PBGC's~~ **the** benefit determination letter.

You may request additional time to file your ~~an~~ appeal

If you need more time to file your appeal, you may ask the Appeals Board for an extension of the ~~filing deadline~~ **time**. ~~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. You should state why you need more time to file your appeal and how much more time you will need. **PBGC offers a convenient optional form you may use to request an extension of time (Form 723 – Request for Additional**

Time to File an Appeal of a PBGC Benefit Determination). Form 723 is available can be obtained from PBGC's Customer Contact Center; or at printed/downloaded directly from www.pbgc.gov/documents/e723.pdf. If you use Form 723, you should answer all questions and sign and date the form. A request for an extension of time to file an appeal This request must be postmarked by the U.S. Postal Service, faxed, emailed, or delivered to the Appeals Board no later than 45 calendar days after the date of PBGC's benefit determination letter.

The Appeals Board will grant an extension of time if you show a good reason why you need more time. The filing of a request for an extension of time will stop the running of the 45-calendar-day period of time to file an appeal. When the Appeals Board grants a request for an extension of time to file an appeal, the Appeals Board will notify you, in writing, of the amount of additional time granted.

If the Appeals Board denies the an extension request, the Appeals Board will notify you, in writing, and the 45-calendar-day appeal period will resume running as of on the date of the Appeals Board's notification of its the denial.

Other information you should include

You should include the following information in your appeal or your request for an extension of the filing deadline: (If you are not the plan participant, you should provide his or her information.)

- Your name, address, and PBGC Customer ID Number or 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 PBGC's benefit determination letter);
- Your daytime telephone number (including area code); and
- A list of any information requests for which you are awaiting a response from PBGC or another entity (such as the Social Security Administration, a former employer, or a union).

Where to send an appeal appeals and a request requests for additional time to file an appeal

Send your appeal or request for additional time to file an appeal by mail to:

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

You may also fax submit your appeal or request for additional time to file an appeal by fax a filing extension to the Appeals Board at 202-326-229-4095 or 202-326-229-4091, or by email to appeals@pbgc.gov.

The Appeals Board will acknowledge your correspondence ~~within one week of receipt.~~ **in writing.** If you have questions about how to file an appeal or how to request **additional time to file an appeal** ~~a filing extension~~, or if you would like information about your appeal, you may call the Appeals Board at 1-800-400-7242, extension 4090, write to the **Appeals Board** at the above address, or by email **the Appeals Board at** [to **appeals@pbgc.gov**](mailto:appeals@pbgc.gov).

How to get **obtain copies of PBGC records**

For information on how to request PBGC records under the Freedom of Information Act (FOIA), see PBGC's website at www.pbgc.gov/about/pg/footer/foia. **If you have additional questions about records requests, you may contact PBGC's Disclosure Division at 202-229-4040.** PBGC is a participating agency in FOIAonline, which allows you to submit your request electronically.

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 represent you. You do not need an attorney to file an appeal or to request an extension of time to file an appeal. If you 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~~ **which** specifically states the scope of the representative's authority to act for you. **If you prefer,** ~~you~~ may use PBGC's optional form to name a representative (Form 715 – Power of Attorney). **Form 715 can be obtained,** ~~available~~ from PBGC's Customer Contact Center at 1-800-400-7242, **or printed/downloaded directly from** at www.pbgc.gov/wr/transactions/power-attorney.html.

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 **Appeals Board** may ask you for additional information. If you request a hearing or an opportunity to present witnesses, the **Appeals Board** will decide whether a hearing is needed to resolve your appeal. The **Appeals Board's** past experience indicates that 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 benefit determination to the Appeals Board, you may not be able to obtain review by a court of law.

When PBGC's benefit determination will become effective

If you do not appeal PBGC's benefit determination, it will become effective when the 45-calendar-day appeal period ends. If you do appeal, the determination will not become effective until the Appeals Board issues its decision on your appeal.

The Appeals Board's **decision** may uphold ~~PBGC's benefit determination~~ or change the benefit determination. **Changes to a benefit determination** may include increasing or decreasing **the amount** of your benefit **entitlement**.

Reference

For more information about the Appeals Board's purpose and procedures, including a link to PBGC's "Rules for Administrative Review of Agency Decisions" in Title 29, Code of Federal Regulations, Part 4003, see www.pbgc.gov/prac/appeals-board.html.

Checklist

- Have you included all information that applies to your appeal or request for an extension of time **to file an appeal**, including your name, address, PBGC Customer ID Number ~~or~~ Social Security Number, daytime telephone number, plan name, and PBGC case number?
- Does your correspondence clearly state that it is an appeal or request for an extension of time to **file an** appeal?
- Does your correspondence specifically explain why PBGC's benefit determination is **incorrect** ~~wrong~~ or why you are requesting an extension of time **to file an appeal**?
- Have you included all information and copies of documents that support your appeal or request for an extension of time **to file an appeal**?
- Have you included a notarized power of attorney or **optional** PBGC ~~(optional)~~ Form 715, if you are being represented by someone other than an attorney?
- Is your appeal or request for more time **to file an appeal** postmarked, faxed, emailed, or delivered to the Appeals Board no later than 45 calendar days after the date of PBGC's ~~the~~ benefit determination letter?
- Have you signed your appeal or request for extension of time to file an appeal?

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