

Black Lung Benefits Offsets

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A. Background

Some PBGC payees have pension benefits that are offset by Black Lung Benefits they receive through the United States Department of Labor's Black Lung program (or similar, state-operated Black Lung programs). Typically, PBGC trustee plans that have this offset feature are plans in the steel industry, specifically those that covered coal miners.

The Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code prohibit a reduction in a pension plan benefit based on an authorized increase in Social Security benefits that occurs after the earlier of the participant's first receipt of benefits or separation from covered service. The Treasury regulations (§1.401(a) – 15(d)) extend this prohibition to other Federal or state-provided benefits "to the extent applicable."

PBGC interprets this guidance as applicable to offsets of pensions for Black Lung Benefits. If a payee's Black Lung Benefits increase after the payee's separation from service or first receipt of benefits from the plan, PBGC will not increase the Black Lung Offset amount used. However, if a payee's Black Lung Benefits decrease (for example, when the benefit recipient's children reach majority age) PBGC will decrease the Black Lung Offset amount it uses to determine the payee's benefit, which may result in an increase to the payee's PBGC benefit.

This PBGC internal guidance replaces guidance originally issued in Internal Guidance Bulletin Adjustment of Benefit Offsets Because of Changes to Black Lung Payments (issued 11/10/04) and specifies PBGC will notify payees about its Black Lung Benefit offset rules in benefit determinations.

B. Scope and Effective Date

This PBGC internal guidance applies to PBGC trustee plans and is effective upon issuance.

C. Internal Guidance

1. General Rule

If a pension plan provides that Black Lung Benefits offset a payee's benefit, PBGC will determine the amount used to offset a payee's PBGC Benefit, the "Black Lung Offset amount", using the Black Lung Benefit amount payable as of the earlier of the payee's separation from service or first receipt of benefits from the pension plan.

If notified of a subsequent decrease to a payee's Black Lung Benefits, PBGC will decrease its Black Lung Offset amount, which may increase the PBGC benefit.

If a payee's Black Lung Benefits subsequently increases, PBGC will not change the Black Lung Offset amount used to determine the payee's PBGC benefit.

2. Notice to Participants

PBGC will describe the General Rule in the benefit determination of participants with benefits subject to a Black Lung Offset, and, if applicable, in an estimated benefit letter. The letter(s) will advise the participant to notify PBGC if the Black Lung Benefit amount decreases, after which PBGC will reduce the Black Lung Benefit Offset currently being applied, which may result in an increased PBGC benefit.

3. Documentation

If PBGC is notified of a decrease to the Black Lung Payments being used to offset the PBGC benefit, PBGC will require evidence of the reduced Black Lung Payments and the effective date of the reduced payment amount before implementing a benefit increase.

4. Benefit Increases

PBGC will increase the PBGC benefit effective as of the date of the decrease in Black Lung Payments. If the increase is retroactive, PBGC will calculate net underpayments according to Internal Guidance Calculation and Netting of Post-DOPT Overpayments and Underpayments and reimburse following Internal Guidance Underpayment Reimbursement and Interest Payments. A new benefit determination is not required.

5. Pre-DOPT adjustments

If OBA determines that a prior plan administrator was not administering a trustee plan following the General Rule above, request guidance by emailing PSDGuidance@pbgc.gov.