

# Annuity Starting Dates

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## A. Background

PBGC is revising its internal guidance on annuity starting dates to reflect the end of working retirement restrictions in trustee plans. Under Outdated Internal Guidance Working Retirement, participants were generally prohibited from receiving early retirement benefits while still employed by the company that sponsored the pension plan before it terminated (the “DOPT employer”). Transmittal 2021-05, effective June 1, 2021, rescinded Internal Guidance Working Retirement. Beginning June 1, 2021, PBGC will no longer restrict early retirement benefits based on continued employment with the DOPT employer.

This tenth edition of Internal Guidance Annuity Starting Dates incorporates conforming changes to reflect the rescission of the working retirement internal guidance and provides retroactive annuity starting dates for participants for whom working retirement restrictions would have continued if the working retirement internal guidance had not been rescinded.

## B. Scope and Effective Date

This internal guidance applies to all payees in PBGC-trustee plans, and it is effective June 1, 2021.

## C. General Rule

The annuity starting date is the date on which the first benefit payment is due. It is a prospective date requested by the payee in a documented contact with PBGC, if the payee is eligible for a PBGC benefit on that date. (During the period of up to 180 days immediately following PBGC trusteeship, as part of a coordinated transition to PBGC assumption of plan administration, PBGC may treat documented contact with the prior plan administrator as documented contact with PBGC for purposes of establishing a payee’s annuity starting date.)

Annuity starting date rules for alternate payees with separate interest QDROs are contained in section F of this internal guidance. Annuity starting dates for all other payees are determined according to the rules in section 1 or 2 below.

1. **Documented contact before April 1, 2021** Until April 1, 2021, PBGC will continue to apply the general rule in Section C of the previous edition of this internal guidance (Annuity Starting Dates, 8<sup>th</sup> Ed.). For purposes of this section, any references to sections D, E, and F in Section C of the previous edition of this internal guidance will refer to those sections in this edition of the internal guidance.
2. **Documented contact on or after April 1, 2021** On and after April 1, 2021, PBGC will apply the general rule below for establishing annuity starting dates.
  - a. **General rule**

Except as provided in sections D, E, and F, below, the annuity starting date cannot be earlier than the first day of the third month following such contact. For example, if a participant contacts PBGC in April, their earliest annuity starting date would be July 1 (if they are eligible for a PBGC benefit on that date). If they contact PBGC in October, their

earliest annuity starting date would be January 1 of the following year. Examples of a documented contact are:

- i. PBGC's receipt of a completed application for benefits;
- ii. PBGC's receipt (by letter, e-mail, telephone call, or MyPBA) of a request for a benefit estimate for an annuity starting date within 180 days of the date the request is made;
- iii. The initiation of an electronic benefit application that is subsequently completed and mailed to PBGC.

In order for the payee to retain the requested annuity starting date, PBGC must receive the completed application, including all required documentation, within 180 days of the date of the letter sending the application to the payee (or, if applicable, the date of the initiation of the electronic benefit application).

**b. Exception for administrative delay**

If after 180 days, an application is incomplete primarily due to administrative delay for which PBGC is responsible, PBGC may allow the payee to retain the original requested annuity starting date in accordance with the following rules:

- i. **Married participants:** If a married participant elects the plan's automatic form of benefit for married participants, PBGC will not require the participant to complete a new application. PBGC will continue to process the original application.

If a married participant elects any form of benefit other than the plan's automatic form of benefit for married participants, PBGC will require the participant to complete a new application (including new spousal consent).

- ii. **All other payees:** For all other payees (e.g. single participants, QPSA beneficiaries, and alternate payees under QDROs), PBGC will not require the payee to complete a new application. PBGC will continue to process the original application.

If PBGC allows a payee to complete an application after the 180-day period has expired, the additional period allowed to complete the application will not exceed 180 days.

**c. Exception for applications processed by plan administrator shortly after PBGC trusteeship**

If, in the period of up to 180 days immediately following PBGC trusteeship (as part of a coordinated transition to PBGC's assumption of plan administration), the prior plan administrator continues to process benefit applications, PBGC may accept the annuity starting date established by the prior plan administrator (assuming it comports with the plan's provisions and established practice), even if it is earlier than the earliest date allowed under the rule in section a. above.

**d. Exception for economic harm**

If a payee requests an earlier annuity starting date and asserts that any delay would cause economic harm, based on the facts and circumstances of the particular case, PBGC may allow the payee to choose an annuity starting date as early as the first day of the month immediately following contact with PBGC requesting to start receiving benefits (if the payee is otherwise eligible to begin receiving benefits on that date).

## **D. Retroactive Annuity Starting Dates**

PBGC will allow a payee (i.e. a participant, beneficiary, or alternate payee) to elect a retroactive annuity starting date (i.e., an annuity starting date before the date of a documented contact with PBGC) only if one of the situations described in section D.2 below exists, and subject to the spousal consent rules in section D.1 below. Except as noted below, retroactive annuity starting dates can be before DOPT.

When providing a payee the option to elect a retroactive annuity starting date, PBGC will provide benefit calculations for both the retroactive annuity starting date and the earliest allowable prospective annuity starting date (or the original annuity starting date if the payee is already receiving benefits).

If PBGC permits a retroactive annuity starting date, the payee generally must affirmatively elect the retroactive annuity starting date; however, if the monthly benefits payable to the payee (and to the surviving beneficiary if applicable) under the retroactive annuity starting date are no less than those payable under the earliest allowable prospective annuity starting date (or the original annuity starting date if the customer is already receiving benefits), PBGC may change the annuity starting date without the customer's election.

Working retirement restrictions may apply to retroactive early retirement dates before June 1, 2021. See Outdated Internal Guidance Working Retirement for the rules applicable to retroactive annuity starting dates prior to June 1, 2021, and Transmittal 2021-05, which ended working retirement restrictions for annuity starting dates on and after June 1, 2021.

### **1. Spousal Consent**

PBGC generally will require spousal consent to a participant's election of a retroactive annuity starting date according to the rules below; however, these rules do not take effect until the forms necessary to implement them have been approved by the Office of Management and Budget (OMB) and implemented by PBGC.

If PBGC permits a retroactive annuity starting date, participants must obtain spousal consent as described below to elect the retroactive annuity starting date. If they fail to obtain consent required under either a. or b. below (or both), they will not be permitted to change their annuity starting date. However, any applications or election forms for retroactive annuity starting dates that are provided to participants before PBGC implements these rules and that do not accommodate these spousal consent requirements will be processed according to standard procedures without requiring spousal consent to the retroactive annuity starting date.

- a. If the participant is married when they elect the retroactive annuity starting date, and the survivor benefits payable under the normal married form of benefit as of a prospective annuity starting date are greater than those payable as of the retroactive annuity starting date by more than a *de minimis* amount (as described below), the participant must obtain that spouse's consent to both the retroactive annuity starting date and the form of annuity (even if the participant elects the plan's normal married form of annuity). If the participant

is already receiving benefits and was married to a different spouse when they started receiving benefits, request guidance by emailing [PSDGuidance@pbgc.gov](mailto:PSDGuidance@pbgc.gov).

- b. If the participant is already receiving benefits and was married when they started receiving benefits, and the survivor benefits payable to that spouse under the retroactive annuity starting date would be less than those under the current annuity starting date by more than a *de minimis* amount, the participant must obtain that spouse's consent to change the annuity starting date.

A change in the monthly survivor benefit is considered *de minimis* for these purposes if it is less than twenty-five dollars and less than ten percent of the survivor benefit payable under the prospective or original annuity starting date.

## **2. Eligibility for Retroactive Annuity Starting Dates**

### **a. Required beginning dates**

For any payee who applies for a benefit after the required beginning date as defined in Internal Guidance Required Beginning Dates, the annuity starting date is the required beginning date, unless the payee is eligible for an earlier retroactive annuity starting date under one of the other exceptions below.

### **b. Plan retroactivity**

If a payee's plan specifically allows for or requires retroactive annuity starting dates and the payee meets the conditions in the plan document, PBGC gives the payee the choice of retroactive payments or prospective payments (with a higher benefit, generally). A plan provision requiring that a participant apply for a benefit at a particular age (e.g., normal retirement age) will not be considered a provision requiring retroactive payments.

### **c. Inability to apply**

If PBGC determines that a participant or beneficiary was without sufficient information or opportunity to apply for a benefit, PBGC allows the payee to elect an annuity starting date that is retroactive to the later of the payee's earliest eligibility date or the date that PBGC determines payees became unable to apply for benefits from the plan.

Examples of situations in which payees are without sufficient opportunity or information to apply for benefits include:

- An abandoned plan – i.e. the plan administrator is not responding to participants' requests for information or applications before DOPT.
- A revised Working Retirement Determination.
  - PBGC initially determines incorrectly that working retirement restrictions apply and informs participants they are not eligible to begin receiving benefits before their normal retirement date while working for the DOPT employer, but PBGC subsequently determines that working retirement restrictions do not apply; or
  - PBGC initially determines correctly that working retirement restrictions apply and informs participants they are not eligible to retire before NRD while working for the DOPT employer. The company is later liquidated in an asset sale, and PBGC subsequently determines that working retirement restrictions no longer apply as of the date of the asset sale.

**Note:** PBGC rescinded its working retirement internal guidance effective June 1, 2021, but restrictions under the prior internal guidance continue to apply to retroactive annuity starting dates before June 1, 2021. The examples above continue to be relevant with respect to participants in plans trusted before June 1, 2021, if the participant is ultimately determined to be eligible to receive early retirement benefits before June 1, 2021.

Working retirement restrictions do not apply to annuity starting dates on and after June 1, 2021. See section D.2.g. below for retroactive annuity starting dates for participants to whom working retirement restrictions continued to apply through May 2021 (for whom the restrictions end June 1, 2021).

- PBGC incorrectly advises a payee that they have not met the plan's requirements for early retirement.

A retroactive annuity starting date under this section (Inability to apply) will be granted only if (1) the payee contacts PBGC to begin benefits as of the retroactive annuity starting date within 90 days of the date PBGC advises payees of the opportunity to apply for retroactive payments (or if later, within 90 days of the date the conditions preventing the payee from applying for benefits end), and (2) PBGC receives the completed application, including all required documentation, within 180 days of the date of the letter sending the application to the payee. Request guidance by emailing [PSDGuidance@pbgc.gov](mailto:PSDGuidance@pbgc.gov) if it appears that payees were without sufficient information or opportunity to apply for benefits.

Note: In cases of natural disasters or other events that may prevent payees in multiple plans from applying for benefits, PBGC may determine that this exception applies to affected participants in all plans (or some subset of plans), and may loosen the requirements for payees to affirmatively accept PBGC's offer within 90 days of notification.

**d. Benefits that do not increase with deferral**

Plan provisions, Title IV limitations, and/or the plan asset and 4022(c) allocations may result in a PBGC termination benefit that does not increase – or does not increase substantially – with deferral. For example, a fully guaranteed early unreduced retirement benefit payable as a straight life annuity does not increase with deferral during the period from the early unreduced retirement date through the normal retirement date; the monthly benefit remains the same for any annuity starting date during that period. And for a participant whose funded PC3 benefit exceeds the guaranteed benefit at DOPT, the termination benefit may increase with deferral – but not substantially – due to the 4022(c) allocation, until the guaranteed benefit eventually exceeds the PC3 benefit. These considerations take time to analyze, and PBGC often cannot timely provide reliable information regarding a payee's eligibility for benefits that do not increase with deferral.

If a payee (including, in some cases, an alternate payee under a separate interest QDRO) applies for benefits after the first date at which their benefit stops increasing with deferral, PBGC will allow the payee to elect an annuity starting date retroactive to their earliest eligibility date on or after DOPT for which the benefit does not increase with deferral. This date will be determined using the normal single form of benefit for participants not yet in pay, and the elected form of benefit for participants already in pay.

If a participant who was eligible for a retroactive annuity starting date under this section D.2.d and who was married on their date of death (or required beginning date if earlier) dies

before applying for benefits, the participant's surviving spouse may elect the retroactive annuity starting date as described above for the participant's benefit. If the surviving spouse elects the retroactive annuity starting date, the benefit will be paid in the plan's normal form of benefit for married participants. The surviving spouse will receive a back payment for benefits owed to the participant from the retroactive annuity starting date until the participant's date of death, and benefits owed to the surviving spouse from the participant's date of death until the date the monthly survivor benefit payments begin. If a participant is unmarried on their date of death and dies without applying for benefits, no benefit is payable under this exception.

A payee may elect to receive a retroactive annuity starting date under this section D.2.d at any time, regardless of whether they have been previously notified of eligibility for unreduced benefits or denied a retroactive annuity starting date under a previous edition of this internal guidance.

Exceptions:

If the benefit does not increase with deferral for reasons other than a plan-provided early unreduced retirement date, this exception to the general rule in section C applies only if the benefit does not increase with deferral for a period of at least 12 months beginning on or after DOPT.

Working Retirement restrictions may apply to retroactive annuity starting dates before June 1, 2021. Payees will not be eligible for retroactive payment of benefits for any month before June 1, 2021, for which the working retirement rules in Outdated Internal Guidance Working Retirement prohibited the payee from receiving benefits.

If a payee is entitled to a benefit:

- That increases with deferral, but the increase does not appear to be substantial;
- That for reasons other than a plan-provided early unreduced retirement date, does not increase with deferral over a period of fewer than 12 months; or
- Part of which increases with deferral, and part does not increase with deferral,

request guidance by emailing [PSDGuidance@pbgc.gov](mailto:PSDGuidance@pbgc.gov).

**e. Disability benefits**

Sometimes, for a variety of reasons, a participant who was eligible to begin receiving disability benefits from the plan may not have begun receiving disability benefits before the plan terminated. If, after DOPT, a participant is determined to be entitled to a disability benefit from PBGC in accordance with Internal guidance Disability Benefits, the annuity starting date will be determined under the terms of the plan document as if the participant had applied at the time of disability. Participants already in pay under another type of retirement who meet the conditions above may be eligible to elect a retroactive annuity starting date under this exception. See section G.3 for details.

**f. Qualified Preretirement Survivor Annuity (QPSA)**

A QPSA benefit may be paid retroactively to the first of the month following a participant's death, if the completed application, including all required documentation, is received within 180 days from the date of the letter sending the application to the surviving spouse. However, the QPSA may not be paid prior to the earliest QPSA commencement date, as defined in Internal

Guidance Qualified Preretirement Survivor Annuities - Plans Terminating on and after August 23, 1984.

**Note:** If PBGC determines that the surviving spouse was previously offered the opportunity to commence QPSA benefits and deferred, the surviving spouse will not be eligible for a retroactive annuity starting date under this section D.2.f.

**g. Working Retirement restrictions rescinded as of June 1, 2021**

Transmittal 2021-05 ended working retirement restrictions in trustee plans for annuity starting dates on and after June 1, 2021. For prospective annuity starting dates, this means working retirement restrictions are no longer a concern; but working retirement restrictions continue to apply to retroactive annuity starting dates before June 1, 2021, in accordance with the prior internal guidance.

When we communicated these restrictions to participants before the working retirement internal guidance was rescinded, we gave them the expectation that these restrictions would remain in place until they terminated employment with the DOPT employer or reached their normal retirement age (or age 62 if applicable). Because we cannot timely inform all affected participants that these restrictions end as of June 1, 2021, PBGC will allow those participants to whom working retirement restrictions continued to apply until the internal guidance was rescinded – including those who had not yet reached their earliest retirement date under the plan – to elect a retroactive annuity starting date in accordance with the rules below.

If a participant continued to work for the DOPT employer and was restricted from retiring early through May 2021 under Outdated Internal Guidance Working Retirement (rescinded June 1, 2021) and would have continued to be restricted thereafter if the internal guidance had not been rescinded (i.e. if they continued to work for the DOPT employer and had not yet reached their normal retirement age (or age 62 if applicable)), PBGC will allow the participant to elect an annuity starting date retroactive to the later of June 1, 2021 and their earliest annuity starting date under the plan.

If a participant was restricted from retiring early under Outdated Internal Guidance Working Retirement, and those restrictions ended before June 1, 2021, they are not eligible for a retroactive annuity starting date under this exception. However, the participant could be eligible for a retroactive annuity starting date under another exception in section D.2.

## **E. Exceptions for Certain Late Retirement Benefits**

With the issuance of the first edition of this internal guidance on April 25, 2003, PBGC changed its internal guidance on annuity starting dates for late retirees to provide generally for prospective annuity starting dates. Before the internal guidance change, late retirees were generally put into pay status with retroactive annuity starting dates that were their normal retirement dates (or early unreduced retirement dates if applicable). This section contains transition rules that apply to late retirees to whom the retroactivity rules in effect before April 25, 2003, had been (or may have been) communicated and an exception for participants who are unlocatable until after their normal retirement dates. In no event may the annuity starting date for such a participant be later than the required beginning date under Internal Guidance Required Beginning Dates.

The surviving spouse of a deceased participant will be offered the choices described below for the annuity starting date of the deceased participant's benefit. If the surviving spouse elects a

retroactive ASD for the participant's benefit, the benefit will be paid in the plan's automatic form of benefit for married participants.

**1. Benefit determinations issued before April 25, 2003**

A late retiree whose benefit determination was issued before April 25, 2003, will be given the choice of (a) a benefit retroactive to the normal retirement date stated in the benefit determination or (b) an actuarially adjusted late retirement benefit with a prospective annuity starting date determined under **section C**, above.

**2. Benefit determination not issued as of April 25, 2003**

If a late retiree applies for a benefit on or after April 25, 2003, but before receipt of a benefit determination, the annuity starting date will be determined under **section C**, above, unless the participant was notified that PBGC would pay benefits retroactive to normal retirement date, and the participant requests retroactive payments.

**3. "Unlocatable" participants**

Participants and beneficiaries whom PBGC first contacts after the participant's normal retirement date, e.g. participants who were unlocatable when trusteeship notices or benefit determinations were issued, will be given the choice of (a) a benefit retroactive to the participant's normal retirement date or, if later, the first of month following DOPT or (b) an actuarially adjusted late retirement benefit with a prospective annuity starting date determined under **section C**, above.

## **F. Alternate Payees Under QDROs**

Annuity starting dates for alternate payees will be determined under this section and will be based on the type of QDRO.

**1. Shared payment QDRO**

The annuity starting date for an alternate payee under a shared payment QDRO is determined as follows:

(a) if the participant's first payment date has already occurred as of the date PBGC receives the QDRO that is ultimately qualified, the annuity starting date is the first day of the month after the date the QDRO was received, unless the order requires (or the alternate payee requests) a later annuity starting date; and

(b) if the participant's first payment date has not yet occurred as of the date PBGC receives the QDRO that is ultimately qualified, the annuity starting date is the participant's annuity starting date, unless the order requires a later annuity starting date. In rare circumstances, an alternate payee may request a later annuity starting date. If this occurs, request guidance by emailing [PSDGuidance@pbgc.gov](mailto:PSDGuidance@pbgc.gov).

**2. Separate interest QDRO**

The annuity starting date for an alternate payee under a separate interest QDRO is determined under the following rules.

a) **General rule.** The annuity starting date for an alternate payee named in a separate interest QDRO is a date chosen by the alternate payee. The annuity starting date generally may be only a prospective date that cannot be any of the following:



1. **Earlier than participant's EPRD.** See Internal Guidance Earliest PBGC Retirement Date for complete rules.
  2. **Earlier than receipt of the domestic relations order.** An alternate payee's annuity starting date cannot be earlier than the first of the month following receipt of the order that is ultimately qualified. Submission of draft orders does not affect an alternate payee's annuity starting date.
  3. **Earlier than documented contact by the alternate payee,** as described in section C of this internal guidance.
  4. **Contrary to the terms of the QDRO,** except as provided in section (b), below. A separate interest QDRO may contain rules on when the alternate payee can or must begin receiving their benefit. For example, a QDRO may state that payments to the alternate payee will begin when payments to the participant start, or that payments to the alternate payee may not start before the participant's annuity starting date. PBGC will generally enforce any such restrictions for orders qualified either by the prior plan administrator or by PBGC. If the alternate payee did not commence benefits as required by the QDRO, and the oversight is discovered at a later date, the alternate payee's annuity starting date will be retroactive to the date mandated by the QDRO.
- b) **Limited availability of retroactive annuity starting dates:** Participant entitled to retroactive payments. If the participant whose benefits are assigned by a QDRO is permitted a retroactive annuity starting date under section D or section E of this internal guidance and the retroactive payment has not yet been made, the alternate payee will also be entitled to retroactive payments unless the QDRO specifically provides otherwise (see exception, below). This is true if the annuity starting date is earlier than the date of PBGC receipt of the order, the PC3 date, or even the date of divorce. The alternate payee's annuity starting date may not be earlier than the date the alternate payee's turns age 50 and the earliest eligibility age for an unreduced or level benefit.

**Exception:** If under section D.2.g above the participant is entitled to a retroactive annuity starting date and the separate interest alternate payee is not yet in pay, the alternate payee will not generally also be entitled to a retroactive annuity starting date. However, if the participant is entitled to a retroactive annuity starting date and the QDRO applicable to the participant's benefit restricts the alternate payee's annuity start date so that the alternate payee is either (1) prohibited from going into pay before the participant or (2) required to have the same annuity starting date as the participant, PBGC will generally abide by the terms of the QDRO with respect to the alternate payee's annuity starting state. This means that the ability of an alternate payee under either of these types of QDROs to elect a retroactive annuity starting date will depend on whether the participant actually elects a retroactive annuity starting date under section D.2.g.

### 3. **Application requirement and retroactive payments**

An application for benefits is required for an alternate payee's benefits to start. If an alternate payee is permitted a retroactive annuity date or has a required annuity starting date under this section, PBGC will pay benefits retroactively to the required annuity starting date upon receipt of a valid application.

### 4. **Non-disclosure or administrative error**

If a participant does not disclose the existence of a QDRO on a General Information Form or Payee Information Form or when applying for benefits, or if either PBGC or a prior plan administrator fails to administer a QDRO, the alternate payee will be entitled to a retroactive annuity starting date no earlier than the date which would have been permitted had the QDRO been properly disclosed and administered. See **section E.4** of Internal Guidance Qualified Domestic Relations Orders (QDROs).

## G. Changes in Annuity Starting Dates

Generally, PBGC will not allow a payee to change the annuity starting date after they have filed a valid benefit application. However, PBGC will allow such changes in the following circumstances.

Recoupment of overpayments. An overpayment that results from a change made under the rules in this section is subject to recoupment under Internal guidance Recoupment, Recovery and Administrative Correction unless payments are returned pursuant to a PBGC request.

### 1. Withdrawal of application

- a. **For a change in annuity starting date.** PBGC will allow an applicant to withdraw the benefit application and defer receipt of the annuity benefits if they contact PBGC before the first payment date. PBGC will confirm such a request in writing at the time the request is implemented and request the return of any payments made to the payee.

When PBGC honors such a request:

- i. PBGC will not require a new application if the new annuity starting date is within 180 days of the date of the original application and there is no change in benefit form or beneficiary of a joint-life benefit.
  - ii. PBGC will require a new application if the new annuity starting date is more than 180 days after the date of the original application. The new annuity starting date will be determined under this internal guidance.
- b. **For a change in annuity benefit form.** Under section H.1.a. of Internal Guidance Annuity Benefit Forms, an applicant may also withdraw an application before first payment date in order to change the benefit form. The applicant may retain the original annuity starting date and be paid in the new benefit form elected if a valid new application is filed within 180 days of the date of the original application and the payee requests there be no change in the annuity starting date. If the new application is filed more than 180 days after the date of the original application, the applicant will be paid in the new benefit form elected, but with a new annuity starting date based on the date of the new application.

**Note:** If a married participant dies after submitting a valid plan application but before first payment date, see the rules in section H.3 of Internal Guidance Annuity Benefit Forms.

### 2. Error of 10% or more in early retirement estimates

If PBGC puts a payee into pay based on a calculation that uses an incorrect early retirement factor that is 10 percentage points or more too small, PBGC will allow the payee to come out of pay and reapply for benefits later with a new annuity starting date.

- a. The magnitude of the error is determined by subtracting the correct early retirement factor from the incorrect early retirement factor originally applied. A difference of 0.10 or greater

indicates an error of 10 percentage points or more. If PBGC erred by 10 percent or more in a calculation used to put a payee into pay, but the early retirement factor applied in the benefit calculation is within 10 percentage points of the correct early retirement factor, request guidance by emailing [PSDGuidance@pbgc.gov](mailto:PSDGuidance@pbgc.gov).

- b. The new annuity starting date will be determined in accordance with this internal guidance – that is, it generally must be a prospective date; however, the new annuity starting date chosen cannot be later than normal retirement date.

**Example 1:** PBGC's benefit estimate quotes a participant an early retirement benefit of \$85 based on the application of an early retirement factor of 0.8500 to an estimated normal retirement benefit of \$100 per month. The payee applies and begins receiving this benefit. Later, PBGC advises the payee in a benefit determination that the correct early retirement factor at their chosen annuity starting date is 0.7000, and that their monthly benefit will be reduced to \$70. Because the early retirement factor used in the estimated benefit is more than 10 percentage points higher than the correct early retirement factor, the benefit determination will give the payee an option to come out of pay status and elect a later annuity starting date.

**Example 2:** PBGC's benefit estimate quotes a participant an early retirement benefit of \$900 based on the application of an early retirement factor of 0.9000 to an estimated normal retirement benefit of \$1000 per month. The payee applies and begins receiving this benefit. Later, after the participant's normal retirement date has passed, PBGC advises the payee in a benefit determination that the correct early retirement factor at their chosen annuity starting date is 0.7500, and that their monthly benefit will be reduced to \$750. Because the early retirement factor used in the estimated benefit is more than 10 percentage points higher than the correct early retirement factor, the benefit determination will give the payee an option to come out of pay status and reapply for benefits commencing as of their normal retirement date.

When an annuity starting date may be changed under this section, PBGC will notify the participant, who will be allowed 30 days from the date of the notice with the correct benefit information (typically in the benefit determination) to contact PBGC to request to withdraw their previous application for benefits and come out of pay. If the participant had a spouse at the time the original application was filed, and the spouse is still alive, that spouse must consent in writing to the withdrawal of the application.

PBGC will respond in writing to the request. If the request is approved, the payee will be taken out of pay status and must submit a new complete application (including required consent) for the new annuity starting date. Any benefits paid before will be included in the computation of overpayments and underpayments based on the participant's new benefit amount and annuity starting date in accordance with Internal Guidance Computation and Netting of Post-DOPT Overpayments and Underpayments.

### 3. **Retroactive annuity starting dates for participants already in pay status**

Under certain circumstances, generally limited to situations in which PBGC (or the prior plan administrator) failed or was unable to provide timely and accurate retirement information necessary for a participant to make an informed decision about when to start receiving benefits, PBGC may allow a participant who is already receiving benefits to change their annuity starting date to an earlier retroactive annuity starting date. If a participant who is already receiving benefits is eligible for a retroactive annuity starting date under section D.2.c, D.2.d, or D.2.e of this internal guidance, PBGC will allow the participant to change their annuity starting date to the retroactive annuity starting date determined under section D.2, subject to the spousal consent requirements of section

D.1. The participant will not be permitted to change the nominal form of benefit (including the designated beneficiary of a joint-and-survivor annuity).