

---

## 29 C.F.R. § 4022.61

---

### Limitations on benefit payments by plan administrator.

---

- (a) *General.* When § 4041.42 of this chapter requires a plan administrator to reduce benefits, the plan administrator shall limit benefit payments in accordance with this section.
- (b) *Accrued benefit at normal retirement.* Except to the extent permitted by paragraph (d) of this section, a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant that exceeds the participant's accrued benefit payable at normal retirement age under the plan. For the purpose of applying this limitation, post-retirement benefit increases, such as cost-of-living adjustments, are not considered to increase a participant's benefit beyond his or her accrued benefit payable at normal retirement age.
- (c) *Maximum guaranteeable benefit.* Except to the extent permitted by paragraph (d) of this section, a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant, as limited by paragraph (b) of this section, that exceeds the maximum guaranteeable benefit under section 4022(b)(3)(B) of ERISA and § 4022.22(a)(2) of this part, adjusted for age and benefit form, for the year of the proposed termination date. In a PPA 2006 bankruptcy termination, the maximum guaranteeable benefit is determined as of the bankruptcy filing date, in accordance with §§ 4022.22(b) and 4022.23(g).
- (d) *Estimated benefit payments.* A plan administrator shall pay the monthly benefit payable with respect to each participant as determined under § 4022.62 or § 4022.63, whichever produces the higher benefit.
- (e) *PBGC authority to modify procedures.* In order to avoid abuse of the plan termination insurance system, inequitable treatment of participants and beneficiaries, or the imposition of unreasonable burdens on terminating plans, the PBGC may authorize or direct the use of alternative procedures for determining benefit reductions.
- (f) *Examples.* This section is illustrated by the following examples. (For examples addressing issues specific to a PPA 2006 bankruptcy termination, see §§ 4022.21(e), 4022.22(b), and 4022.23(g).)

#### Example 1. Facts.

On October 10, 1992, a plan administrator files with the PBGC a notice of intent to terminate in a distress termination that includes December 31, 1992, as the proposed termination date. A participant who is in pay status on December 31, 1992, has been receiving his accrued benefit of \$2,500 per month under the plan. The benefit is in the form of a joint and survivor annuity (contingent basis) that will pay 50 percent of the participant's benefit amount (*i.e.*, \$1,250 per month) to his surviving spouse following the death of the participant. On December 31, 1992, the participant is age 66, and his wife is age 56.

*Benefit reductions.* Paragraph (b) of this section requires the plan administrator to cease paying benefits in excess of the accrued benefit payable at normal retirement age. Because the participant is receiving only his accrued benefit, no reduction is required under paragraph (b).

---

Paragraph (c) of this section requires the plan administrator to cease paying benefits in excess of the maximum guaranteeable benefit, adjusted for age and benefit form in accordance with the provisions of subpart B. The maximum guaranteeable benefit for plans terminating in 1992, the year of the proposed termination date, is \$2,352.27 per month, payable in the form of a single life annuity at age 65. Because the participant is older than age 65, no adjustment is required under § 4022.23(c) based on the annuitant's age factor. The benefit form is a joint and survivor annuity (contingent basis), as defined in § 4022.23(d)(2). The required benefit reduction for this benefit form under § 4022.23(d) is 10 percent. The corresponding adjustment factor is 0.90 (1.00-0.10). The benefit reduction factor to adjust for the age difference between the participant and the beneficiary is computed under § 4022.23(e). In computing the difference in ages, years over 65 years of age are not taken into account. Therefore, the age difference is 9 years (65-56). The required percentage reduction when the beneficiary is 9 years younger than the participant is 9 percent. The corresponding adjustment factor is 0.91 (1.00-0.09).

The maximum guaranteeable benefit adjusted for age and benefit form is \$1,926.51 ( $\$2,352.27 \times 0.90 \times 0.91$ ) per month. Therefore, the plan administrator must reduce the participant's benefit payment from \$2,500 to \$1,926.51. If the participant dies after December 31, 1992, the plan administrator will pay his spouse \$963.26 ( $0.50 \times \$1,926.51$ ) per month.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)