FILING A CLAIM FOR YOUR RETIREMENT BENEFITS

This publication has been developed by the U.S. Department of Labor, Employee Benefits Security Administration (EBSA).

To view this and other EBSA publications, visit the agency's **website.**

To order publications or speak with a benefits advisor, contact EBSA **electronically.**
Or call toll free: **1-866-444-3272**

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This booklet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Introduction

If you have participated in a traditional pension plan, a 401(k), or other employment-based retirement plan, you will want to know how to file a claim for your benefits. The steps outlined below describe some of your plan's obligations and briefly explain the procedures and timelines for filing a claim for retirement benefits.

Before you file, however, be aware of the Employee Retirement Income Security Act of 1974 (ERISA), a law that protects your retirement benefits and sets standards for those who administer your retirement plan. Among other things, the law includes requirements for the processing of benefit claims, the timeline for a decision when you file a claim, and your rights when a claim is denied.

You should know that ERISA does not cover some employee benefit plans (such as those sponsored by government entities and most churches). If, however, you are one of the millions of participants and beneficiaries who depend on retirement benefits from a private-sector, employment-based retirement plan, take a few minutes and read on before filing a claim.

Reviewing the Summary Plan Description

A key document related to your retirement benefits is the summary plan description (SPD) for your plan. The SPD provides a detailed overview of the plan – how it works, what benefits it provides, and the plan's procedures for filing a claim. It also describes your rights as well as your responsibilities under ERISA and your plan. For some single employer collectively bargained plans, you should also check the collective bargaining agreement's claim filing, grievance and appeal procedures as they may apply to claims for retirement benefits.

Before you apply for retirement benefits, review the SPD to make sure you meet the plan's requirements and understand the procedures for filing a claim. Sometimes claims procedures are contained in a separate booklet that is handed out with your SPD. If you do not have a copy of your plan's SPD or claims procedures, make a written request for one or both to your retirement plan's administrator. Your plan administrator is required to provide you with a copy.

If you are not retiring but are changing jobs and wish to roll over the money in your plan to an IRA or another employer's retirement plan, the SPD will tell you if and how this transfer can be made. Plans that do permit rollovers will specify the process for requesting a transfer. Your SPD will also tell you if there are special rules for benefits such as those for early retirement benefits.

Filing A Claim

An important first step is to check your SPD to make sure you meet your plan's eligibility requirements to receive benefits. Your plan might say, for example, that you must have worked a certain number of years and/or be a certain age before you can start receiving benefits. Also, be aware of what your plan requires to file a claim. The SPD or claims procedure booklet must include information on where to file, what to file, and who to contact if you have questions about your plan, such as how to estimate your retirement benefits. Plans cannot charge any filing fees or costs for filing claims and appeals.

If, for any reason, that information is not in the SPD or claims procedure booklet, write your plan administrator, your employer's human resource department (or the office that normally handles claims), or an office of your employer to notify them that you have a claim. Keep a copy of the letter for your records. You may also want to send the letter by certified mail, return receipt requested, so you will have a record that the letter was received and by whom.

If it is not you, but an authorized representative or your beneficiary who is filing the claim, that person should refer to the SPD and follow your plan's claims procedure. The procedure may require other documents when this type of claim is filed.

When a claim is filed, be sure to keep a copy for your records.

Waiting Period

Your plan has 90 days in which to evaluate your claim and to tell you whether or not you will receive the retirement benefits. It may not take this long.

If, because of special circumstances, your plan needs more time to decide your claim, it must tell you within the 90-day period that more time is needed, why it is needed, and the date by which you can expect a decision. Plans can have up to 90 additional days to decide your claim. Make a note of when you file your claim.

Usually, claims are decided within the 90-day period (or 180 days if an extension applies). If you are entitled to benefits, check your SPD for how and when benefits are paid.

If your claim is denied, the plan must send you written notice within 90 days (or 180 days if an extension applies). This notice must be in plain language that can be understood. It must include all the specific reasons for the denial, refer you to the plan provisions on which the decision is based, and tell you if more information is needed from you to decide the claim, what that information is, and why it is needed. It also must describe the plan's procedures and deadlines for submitting an appeal of your claim for a full and fair review.

Appealing a Denied Claim

Claims are denied for various reasons. Perhaps you haven't been a participant in the plan long enough. Or you may not be old enough to meet the plan's age requirements. Or perhaps the plan simply needs more information about your claim. Whatever the reason, the plan must give you at least 60 days to file an appeal (check your SPD or claims procedure booklet to see if your plan provides a longer time period).

Use the information in your claim denial notice in preparing your appeal. You should also be aware that the plan must provide claimants, on request and free of charge, copies of all documents, records, and other information relevant to the claim for benefits. Be sure to include all information related to your claim, particularly any additional information or evidence, and get it to the person specified in the denial notice before the end of the 60-day period.

Reviewing an Appeal

Plan officials have 60 days to review your appeal. If it is going to take longer, they must notify you in writing of the delay. Plan officials can extend the decision due date an additional 60 days, for a total of 120 days. There is one exception. When a committee or board of trustees reviews your appeal and that entity meets only quarterly, your appeal may take longer.

Once a final decision on your claim is made, the plan must send you a written explanation of the decision. The notice must be in plain language that can be understood. It must include all the specific reasons for denial of your claim on appeal, refer you to the plan provisions on which the decision is based, tell you if the plan has any additional or voluntary levels of appeal, explain your right to receive all documents that are relevant to your benefit claim free of charge, and describe your rights to seek judicial review of the plan's decision.

If Your Appeal Is Denied

If the plan's final decision denies your claim, you may want to seek legal advice regarding your rights to bring an action in court to challenge the denial. You also may want to contact the nearest office of the Department of Labor's Employee Benefits Security Administration (EBSA) about your rights if you believe the plan failed to follow any of ERISA's requirements in handling your benefit claim.

Filing a Claim – Summary

- Check your eligibility for benefits before filing a claim. Read your SPD and contact your plan administrator if you have questions.
- Once your claim is filed, the maximum allowable waiting period for a decision is 90 days (180 days if an extension applies). Usually, you will receive a decision within this timeframe.
- If your claim is denied, you must receive a written notice, including specific information about why your claim was denied and how to file an appeal.
- You have 60 days to request a full and fair review of your denied claim. Use your plan's appeals procedure and gather and submit new evidence or information to help the plan in reviewing its initial decision.
- Reviewing your appeal can take up to 60 days, and up to an additional 60 days, if you have been notified of the need for an extension. The plan must send a written notice, telling you whether the appeal was granted or denied.
- If the appeal is denied, the written notice must tell you the reason it was denied, describe any voluntary appeal levels, and contain a statement regarding your rights to seek judicial review of the plan's decision.
- You may decide to seek legal advice if your claim's appeal is denied. If you believe the plan failed to follow ERISA's requirements, you may want to contact the nearest EBSA office concerning your rights under ERISA.

Resources

Contact EBSA if you don't receive a written notice of the decision on your claim or appeal, if you have tried to reach a plan official to file or inquire about a claim and received no response, or if you have other questions about filing a claim or about your retirement plan.

You can reach the EBSA regional office nearest you by calling **1-866-444-3272**.

For more information about the claims procedure rules and retirement plans, go to EBSA's **website**. You may also wish to consult the following EBSA publications:

- ***What You Should Know About Your Retirement Plan***
- ***Taking the Mystery Out of Retirement Planning***

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