BeneSys™ Navigator

COMPLIANCE

PBGC proposes new interest rate assumptions for withdrawal liability

by Tom Shaevsky, General Counsel

The Pension Benefit Guaranty Corp. (PBGC) has proposed a new regulation to provide interest rate assumptions in determining a withdrawing employer's liability to a multi-employer pension plan. PBGC estimates that in the 20 years following the new rule's effective date, withdrawal liability payments by employers will increase between $804 million and $2.98 billion.

Under the Employee Retirement Income Security Act of 1974 (ERISA), an employer that withdraws from an underfunded multiemployer plan may owe withdrawal liability to the plan. The amount owed represents the withdrawn employer's share of the amount by which the present value of the plan's nonforfeitable (i.e., vested) benefits exceeds the value of the plan's assets. The plan actuary determines the present value of the plan's nonforfeitable benefits using actuarial assumptions and methods.

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The proposed rule clarifies that it is reasonable to base the interest assumption used to calculate an employer's withdrawal liability on the market price of purchasing annuities from private insurers, such as by use of settlement interest rates prescribed by PBGC under section 4044 of ERISA (4044 rates). The 4044 rates are used to (1) determine the present value of annuities in single-employer plan terminations and (2) value nonforfeitable benefits in multiemployer plans following mass withdrawal. (A plan is terminated in a mass withdrawal if all of the contributing employers withdraw.) The proposed rule would specifically permit the use of 4044 rates either as a stand-alone assumption or combined with funding interest rate assumptions to determine withdrawal liability.

This is the first time PBGC has issued a regulation setting forth the assumptions that an ongoing plan may use in calculating an employer's withdrawal liability.

"This proposed rule provides the clarity that many multiemployer plans need to determine an employer's withdrawal liability and protect the retirement security of the workers

Tom Shaevsky is general counsel at BeneSys Inc. He has spent nearly 25 years practicing ERISA/employee benefits law.

and retirees covered by the plan," PBGC Director Gordon Hartogensis said in a statement.

Assumptions and common approaches

For ongoing plans, section 4213(a) of ERISA provides that withdrawal liability shall be determined by each plan on the basis of:

1. Actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or
2. Actuarial assumptions and methods set forth in PBGC's regulations for purposes of determining an employer's withdrawal liability.

Because PBGC has not previously issued regulations, plans have typically determined withdrawal liability under option 1 above, and in so doing have tended to follow three common approaches:

- **The first approach** uses the same interest rate assumption that is used to determine minimum funding requirements, based on the expected average return on plan assets over the long term.
- **The second approach** considers that a withdrawing employer ceases to participate in the plan's investment experience because the employer is settling its liabilities once and for all and bears no risk of future losses. This approach therefore considers the use of the 4044 rates.
- **A third approach** uses an interest rate assumption that employs elements of the first two approaches.

Clarity welcomed

PBGC's proposed regulation should also prove useful in legal circles. There has been increasing litigation over withdrawal liability determinations, centered on the interest rate assumption used to discount liabilities of ongoing plans. Court decisions have varied, and some have noted PBGC's unused authority to issue a regulation prescribing assumptions.

We await PBGC promulgation of a final rule and, we hope, the clarity it will provide. •

ERISA Advisory Council's cybersecurity recommendations expected in early December

As we informed you in the Q3 2022 edition of *Navigator*, the ERISA Advisory Council has been studying (1) cybersecurity issues affecting health benefit plans and (2) cybersecurity insurance and employee benefit plans. The council is expected to finalize and present its recommendations on these topics during its December 8–9 meeting. For updates, visit www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.

EMPLOYEE SPOTLIGHT

Software programmer marks 40 years at BeneSys

Congratulations to software programmer Art Hedger on celebrating his 40th anniversary at BeneSys in September! Now our longest-serving employee, Art has seen many changes during his tenure. "When I started, we had seven employees, all in one room with one big computer," he says. BeneSys has grown quite a bit since then — to 900-plus employees and 30 offices around the country.

Art worked in a number of areas, including vacations and claims processing, before moving into pensions about two decades ago. His job entails programming the back-office systems BeneSys uses to track member hours and contributions and to process monthly pension checks and other benefits. For each solution, his work involves analyzing the project needs and desired output, writing the program, and testing it.

"I love my job," Art says. "Before we started working from home, my start time was 7 a.m., but I'd get to the office at 6:30. I love everybody I work with. I like the company and the good working conditions. And I love what I do. I love programming." •

Hello new portals, goodbye faxes

by Jeff Spires, CIO

Jeff Spires is chief information officer at BeneSys Inc.

BeneSys has developed a technology road map that includes many improvements we've previously told you about, such as security upgrades, moving our systems to the Azure cloud, and updating our benefit administration and claims processing systems. Another item on that road map is to improve the web-based solutions we provide to our customers, including our Participant, Employer and Provider Portals. Those updates have begun, and in October we deployed our new Provider Portal as a SaaS solution. The new portal offers real-time member eligibility and accumulator data, which is retrieved on demand from our administration and claims processing systems (see story below).

As part of this improved solution, we have discontinued the fax-back inquiry capability, where providers could call an Interactive Voice Response phone line to request member eligibility and accumulator information. This formerly functional option is no longer optimal because of the significant HIPAA and security risks associated not only with sending faxes to physical fax machines that are unattended, but also with allowing inquiries via fax that are not attributable to a named user at the provider office. Technology has advanced, and these days all providers should have

access to the internet and the ability to register with our Provider Portal.

This change will indirectly benefit the members we support by making more up-to-date information available to the medical community providing services to those members.

If you have any questions about these or any of our other IT improvements, please contact your plan manager. •

Modern, self-service Provider Portal debuts

BenefitDriven's newly enhanced Provider Portal is better than ever. Aimed at engaging providers and granting real-time access to claims and eligibility data through a modern, device-agnostic user interface, our Provider Portal streamlines administrative tasks by offering simple, straightforward access to everything a provider needs:

- **Self-service.** The Provider Portal gives registered users the ability to perform self-service functions such as managing the connected tax ID/NPI pairs to their existing user record, verifying eligibility and claims, and submitting secure inquiries.
- **Eligibility verification.** Providers can easily search eligibility details for a patient they've seen or submitted claims for. The provider can view details regarding patient information and demographics, other insurance, primary care physician, plan documents, and real-time accumulator snapshots with graphical progress.
- **Claims history.** Providers can search for claims submitted under their linked NPI and tax ID numbers. The easy-to-use interface puts all the necessary claim information at their fingertips. Providers may open the claim in a simplified view for further analysis.
- **Secure messaging.** The Provider Portal makes it easy to send an inquiry or message regarding a patient's eligibility or claims. Messages are sent in real time to the BeneSys Customer Service team for review and response. The Provider Inbox allows users to open prior inquiries, upload additional attachments, see the responses received from the Customer Service team, and submit a reply message.

The new Provider Portal is accessible through the same URL as before: www.memberbenefitsonline.com. Our state-of-the-art login process is backed by strong multifactor authentication for secure access to the website.

To learn more about the Provider Portal, or any other aspect of our BenefitDriven benefit administration software solution, contact your plan manager. •

FROM THE CEO

Deeply rooted in software and technology

by Ed Wolyniec, CEO

As we were putting together all the informative articles for you in this issue of the *BeneSys Navigator*, two items stood out to me. First is the update on our SaaS offering (see page 3). BeneSys started as a software solution provider in the Taft-Hartley arena over 40 years ago, and our new Provider Portal is the latest in a long line of continually improved product offerings. The second item is the recognition of longtime employee Art Hedger, who just celebrated his 40th anniversary with us (see page 2). As a software programmer in our programming department, Art has played and continues to play a critical role in the solutions we deliver to our clients. Both of these articles speak to our roots and our commitment to being a leading software and technology company.

I hope you enjoy reading this edition of *Navigator*; it's hard to believe this is our last issue for 2022. With the holidays right in front of us, all of us at BeneSys wish you and yours a safe, relaxing and fun-filled holiday season. •

Thank you to everyone who completed our annual Client Satisfaction Survey. We use the results — including your comments — to evaluate areas where we can improve the trustee and member experience. Your input is important to us, and we appreciate your time.

ABOUT BENESYS

BeneSys has been providing Taft-Hartley trust fund administration and IT services since 1979. Our dedicated specialists understand the nuances of Taft-Hartley benefit plans, and our software system, BenefitDriven, is designed to give our clients and their plan Participants the most efficient tools for self-administering trust fund accounts.

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