BeneSys™ Navigator

COMPLIANCE

As year-end SFA application deadline looms, court decision adds wrinkle

by Tom Shaevsky, General Counsel

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

Underfunded multiemployer pension plans in need of financial aid must apply for the Special Financial Assistance (SFA) program through the Pension Benefit Guaranty Corp. by the end of this year. PBGC may have its hands full processing SFA applications, as a recent court decision has given 123 previously ineligible plans standing to apply — a move that could cost taxpayers $6 billion.

If you believe your Taft-Hartley pension plan may be eligible for SFA, please consult with your plan's legal counsel and actuary promptly given the application deadline of Dec. 31, 2025.

SFA eligibility and projected payouts

The American Rescue Plan Act of 2021 (ARP) established the SFA program to provide funding assistance to severely underfunded multiemployer pension plans. Eligible plans can receive lump sum payments meant to provide sufficient funding for benefit payments and administrative expenses for 30 years.

The initial application for SFA must be filed with PBGC by year-end, and any revised or supplemented application must be filed by Dec. 31, 2026, per PBGC Regulation 4262.10(d).

According to ARP, specifically section 4262(b)(1) of the Employee Retirement Income Security Act of 1974 as amended and PBGC Regulation 4262.3(a), a multiemployer pension plan is eligible for SFA if it falls within one of the following four categories:

1. "Critical and declining" status in any plan year beginning in 2020 through 2022;
2. Suspension of benefits approved under the Multiemployer Pension Reform Act of 2014 as of March 11, 2021;
3. "Critical" status in any plan year beginning in 2020 through 2022, a "modified" funded percentage of less than 40%, and a ratio of active to inactive participants of less than 2-to-3; or
4. Insolvent after Dec. 16, 2014, remained insolvent, and not terminated as of March 11, 2021.

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While ARP provided PBGC with an indefinite appropriation to carry out the SFA provisions, in its most recent projections report, PBGC estimated paying $80 billion in SFA to help save severely underfunded multiemployer pension plans that met certain criteria.

In a June 16, 2025, Risk Advisory, the PBGC inspector general noted that as of March 31, 2025, PBGC had received 202 applications requesting a total of $76.4 billion in SFA and had approved 150 applications for $68.6 billion. As of June 16, 2025, PBGC was reviewing 24 SFA applications that would result in approximately $1.8 billion in payments and had 48 plans on the

The recent court ruling could result in SFA approvals by default, with a potential price tag of $6 billion in taxpayer funds.

waiting list to apply for SFA that would be paid approximately $1.3 billion.

The court decision creating risks for PBGC

In an unpleasant surprise to PBGC, on April 29, 2025, the U.S. Court of Appeals for the Second Circuit issued a decision that allows over 100 previously ineligible terminated multiemployer plans to apply for SFA. The PBGC inspector general's June 16 Risk Advisory warns that "this potential influx of plans as the SFA application deadline looms could challenge PBGC's processes for a timely, thorough review and result in plans approval by default" (as the agency may be unable to make determinations on applications within 120 days of receiving them) and could cost about $6 billion in taxpayer funds.

The Risk Advisory explains the background and details of the court case, *Board of Trustees of the Bakery Drivers Local 550 and Industry Pension Fund v. Pension Benefit Guaranty Corp.* In September 2022, the terminated Bakery Drivers pension plan applied for $132 million in SFA. Although the plan had been terminated by mass withdrawal in 2016, one of its former employers resumed contributions in September 2022, after ARP was enacted. The plan used this resumption to claim it was no longer terminated and had restored itself to ongoing status. According to the Risk Advisory:

> On January 20, 2023, PBGC issued a memorandum, which stated, Title IV of ERISA implicitly prohibits restoration of a multiemployer plan terminated by mass withdrawal.
>
> As a result, in January 2023, PBGC denied SFA to the Bakery Drivers Plan on the grounds that it is an ineligible terminated plan.
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> On March 1, 2023, the Plan sued PBGC in federal court under the Administrative Procedure Act (APA), seeking injunctive and declaratory relief to redress violations of ERISA and the APA.

The district court agreed with PBGC's rejection of the plan's SFA application, but the plan appealed to the U.S. Court of Appeals for the Second Circuit. The appeals court held that "despite its connotation, a 'termination' of this kind does not mark the end of a plan's operations." The appeals court did not interpret the pertinent statutory SFA provisions as excluding plans based solely on a prior termination. The Risk Advisory describes the potential impact:

> The decision by the Appeals Court allows terminated multiemployer plans to be eligible for SFA. A terminated multiemployer is similar to a "wasting trust," i.e., plan operations will continue until all participants' benefits are paid. However, under such a plan, participants do not accrue any additional benefits. In addition, most of these plans do not receive any employer contributions. At the inception of ARP, neither PBGC, the Congressional Budget Office (CBO), nor the Congressional Research Services (CRS) anticipated that terminated plans would be eligible for SFA. …
>
> As of March 31, 2025, PBGC's inventory of multiemployer plans contained 123 terminated plans [32 potentially insolvent plans and 91 insolvent plans]. All of these plans could apply for SFA as a result of the Appeals Court ruling.
>
> ARP requires PBGC to process all SFA applications within 120 days of receipt; specifically, ARP section 9704(b) added section 4262(g) to ERISA, which states that a plan's application for SFA that is timely filed "shall be deemed approved unless the [PBGC] notifies the plan within 120 days of the filing of the application that the application is incomplete, any proposed change or assumption is unreasonable, or the plan is not eligible under this section."
>
> SFA applications are complex and properly reviewing and analyzing them takes time. Over the past four years, PBGC has been able to process about 200 applications. If a significant number of the unanticipated plans apply prior to December 31, 2025, when these plans are combined with the 48 plans on PBGC's waiting list to apply, it may prove difficult for PBGC to meet the 120-day statutory requirement for reviewing SFA applications. Any application that was not processed timely would automatically be approved. •

This article is provided for informational purposes only and does not constitute legal advice. Readers should consult with their own legal counsel before acting on any of the information presented.

TECH NEWS

To protect sensitive plan data, the best defense is a good offense

by Jason Wolan, CIO

Jason Wolan is chief information officer at BeneSys Inc.

In today's evolving threat landscape, protecting sensitive plan data demands a proactive approach to both digital and physical security. As custodians of sensitive personal, health and financial information, BeneSys uses the following multi-layered defense strategy that addresses emerging risks before they become incidents.

Prioritize endpoint and network security

- Ensure endpoints are protected and regularly updated across all desktops, laptops and mobile devices.
- Implement firewalls and intrusion detection systems to monitor unusual network activity.
- Apply MFA (multifactor authentication) for all systems with access to sensitive information, especially those with access to PHI (protected health information) and PII (personally identifiable information).

Update software and patch systems regularly

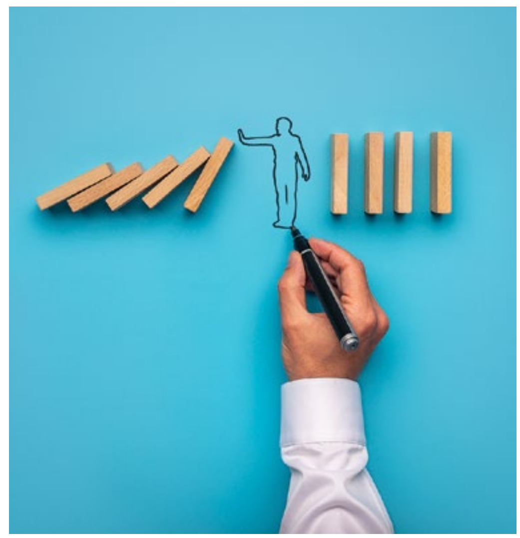
- Keep all operating systems, browsers and third-party software fully patched.
- Use centralized patch management tools to track and enforce updates across all locations.

Control physical access

- Restrict physical access to servers, network closets and sensitive print/mail areas.
- Implement access badge systems and monitor entry logs for audit purposes.
- Ensure that visitor access is always supervised and logged.

Secure print and mail operations

- For on-premises operations, limit access to physical documents.
- For outsourced vendors, confirm SOC 2 Type II and HIPAA compliance are in place.
- Shred and dispose of sensitive materials using certified destruction vendors.



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Conduct employee training and awareness

- Offer recurring cybersecurity training to all employees.
- Simulate phishing emails to measure and improve awareness.
- Establish a clear incident response plan and ensure all teams know how to report issues.

Perform regular security audits

- Perform Clean Desk/Clear Screen Workstation Inspections, ensuring compliance with physical security programs.
- Conduct annual penetration tests and third-party security assessments.
- Review internal controls and ensure alignment with HIPAA, ERISA and Department of Labor cybersecurity best practices.

By adopting a proactive security posture, we can mitigate threats before they disrupt operations or compromise data. A secure TPA is a trusted TPA — and trust is the foundation of every plan relationship. •

CLAIMS CORNER

Smarter claims auditing with SpyGlass

Beacon Technologies Group, a leading provider of health claims management solutions, including SpyGlass, is part of the BeneSys family of companies.

As healthcare costs continue to rise, payers face increasing pressure to reduce waste, prevent fraud and enhance the accuracy of claims payments. One of the most effective ways to meet these challenges is by integrating pre-payment and post-payment auditing directly from your claims adjudication system, helping you make more informed and reliable payment decisions.

Our premier claims processing technology, SpyGlass, is designed with intelligent, built-in audit functionality that streamlines oversight from start to finish. SpyGlass offers four key capabilities that benefit healthcare payers:

1. Audit triggers. Automated audit triggers flag qualifying claims based on configurable rules such as high cost, unusual frequency, and even claims with certain procedures and diagnosis codes. These triggers enable the early detection of anomalies during pre-payment, helping to identify trends, manage workflow and enhance payment accuracy.

2. Audit stratification limits. SpyGlass lets you set audit thresholds to help prioritize higher-risk claims for review based on dollar ranges. An unlimited number of tiers with specific audit percentages can be configured for different users and roles, keeping audit efforts focused, efficient and manageable.

3. Customizable audit reports. SpyGlass provides robust reporting functionality that gives visibility into audit activity and results. Real-time snapshots show which claims are currently under audit and how long they've been in review. Summary-level reports offer a breakdown of audit findings, making it easier to spot trends and recurring issues. For more comprehensive analysis, detailed reports allow teams to drill into the full history of audits.

4. Dedicated auditor role. SpyGlass is built on a roles-based framework that allows configurable access according to specific user responsibilities. For auditors, this means access can be limited to only the specialized tools, workflows and functionality relevant to audit tasks. This targeted access improves operational efficiency, reduces the risk of unauthorized changes, and ensures that auditing activities remain clearly separated from other claims processing functions.

Together, these capabilities transform claims auditing into a proactive process, resulting in fewer errors and greater confidence in claims payment integrity. To learn more about how our SpyGlass technology can benefit your fund office, visit beaconspyglass.com. •

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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FROM THE CEO

Labor Day trivia that's not so trivial

by Ed Wolyniec, CEO

Being a bit of a trivia junkie, I love to learn a few items related to Labor Day and share them with all of you. I've of course used this space to acknowledge the birth of this holiday as a direct outcome of the U.S. organized labor movement. Having previously highlighted such trivia tidbits as where the day was first celebrated, the longest continuously held Labor Day parade, and the holiday's relation to hot dog sales, I thought, Gee, what else can I find? Here's an interesting *and* impactful one: The standard eight-hour workday — implemented in America after pressure from labor unions — applies to other countries as well. In fact the Australians (specifically Tasmanians) actually call Labour Day (their spelling) "Eight Hours Day" to honor this very specific benefit that greatly improved workers' lives. Hope your Eight Hours Day was an enjoyable one! •

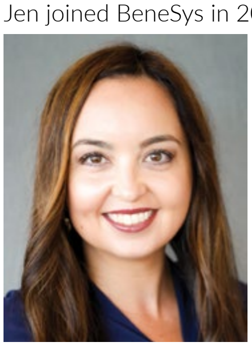
LEADERSHIP

New VPs to further our focus on quality and continuous improvement

As BeneSys continues toward a national organizational structure for service delivery, we are aligning leadership roles accordingly, including these two recent promotions:

- **Jen Sterling, Vice President, Client Financial Services.**

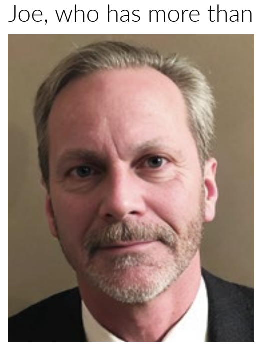
Jen joined BeneSys in 2019 as a staff accountant in our



Canfield, Ohio, office, bringing a strong background in public accounting, financial planning and analysis, and sales management. In her most recent role as director of Accounting, Jen consistently demonstrated leadership, strong financial expertise and a dedication to continuous improvement. In her new role, Jen will oversee our Accounting and Contributions East departments and will focus on operational excellence, process improvement, and delivering high-quality financial services to our clients.

- **Joe Krajacic, Vice President, Retirement Plan Services.**

Joe, who has more than 20 years of industry experience, has



been a valuable member of the BeneSys team since 2011, most recently as national director of Retirement Plan Services. In his new role, Joe will continue to lead our national pension and annuity operations, focusing on quality, enhancing efficiency through automation and process improvement, and strengthening compliance and audits. •