



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

FEB 16 2005



Re: Bethlehem Steel Corporation Pension Plan, Case # 196603

Dear

The Appeals Board reviewed your appeal of PBGC's July 12, 2004 determination of your benefit under the Bethlehem Plan. For the reasons discussed below, we are denying your appeal.

PBGC's Determination and Your Appeal

PBGC's letter said that you are entitled to \$3,809.26 per month in the form of a Straight Life Annuity with a Surviving Spouse Benefit, which is the same amount you are currently receiving and the same amount you were receiving from the prior Plan Administrator. Your August 7, 2004 appeal said that PBGC officials confirmed to the Retired Employees Benefits Coalition (REBO) that the maximum monthly guarantee "cap" for an individual in retirement status on December 18, 2002, the date PBGC took over Bethlehem's pension plan, is based on the individual's age on that date and not on his or her age at retirement. Your appeal included a copy of what appears to be a REBO document with a table showing the Monthly "PBGC Cap" for 2002 plan terminations for a sample of ages. You asked that we review your case because it seems PBGC did not properly consider the cap.

You also noted in your appeal that you are a widower and are aware there are no benefits payable after your death, including the Five-Year Certain or Surviving Spouse Benefits.

Maximum Guaranteed Benefit

When the Plan terminated, effective December 18, 2002, it did not have sufficient assets to provide all benefits PBGC guarantees under Title IV of the Employee Retirement Income Security Act (ERISA). The terms of the Plan, the provisions of ERISA, and PBGC regulations and policies determine your entitlement to a guaranteed benefit. Because of legal limits under ERISA and PBGC's regulations, the benefits that PBGC can guarantee may be less than the benefits a pension plan would otherwise pay. Under one of these limits, the maximum guaranteed benefit limit or MGB, PBGC's guarantee of a *participant's plan benefit* cannot exceed a specific dollar amount payable in the form of a single life annuity beginning at age 65 (see ERISA section 4022(b)(3)).

ERISA requires that PBGC compute, for each calendar year, an MGB that applies to all plans with termination dates in that year. For a plan like Bethlehem with a 2002 termination date, the MGB as a single life annuity beginning at age 65 is \$3,579.55 per month. As you noted in your appeal, the MGB for a given year is lower for a participant under age 65 and higher for a participant over age 65. The relevant age for this purpose is the later of the participant's age on the date he or she retired and the date the Plan terminated. The MGB is also adjusted for a benefit payable in a form other than single life annuity.

Discussion

The files PBGC's auditors obtained from the prior Plan Administrator show that (1) you retired March 1, 1980 under the Plan's Normal Retirement provisions at age 65 with 45 years of credited service; (2) your benefit as a single life annuity, adjusted for the 1981 benefit increase, would have been \$3,809.26 per month; (3) you elected instead to receive your benefit under the 100% Co-Pensioner Option; and (4) your benefit in the form elected was \$3,333.10 per month. The files also show that your benefit form automatically reverted to a single life annuity after your wife's death on January 28, 1993, and your monthly pension increased from \$3,333.10 per month to \$3,809.26 per month.

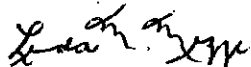
As explained above, the MGB is a statutory cap on the amount of a participant's Plan benefit that PBGC can guarantee. When the Bethlehem Plan terminated, you were receiving a Plan benefit of \$3,809.26 per month as a single life annuity, which is more than the \$3,579.55 per month age-65 MGB for 2002 plan terminations. The Appeals Board found that PBGC did recompute the MGB to reflect your age at Plan termination and, as a result, PBGC will pay your full Plan benefit. Please note that the MGB does not cause your Plan benefit to increase.

Decision

Because you have not presented any grounds that could change PBGC's July 12, 2004 determination that you are entitled to \$3,809.26 per month as a single life annuity under the Bethlehem Plan, we are denying this appeal. This is the Agency's final decision on this matter and you may, if you wish, seek court review.

If you have questions, please call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,



Linda M. Mizzi
Member, Appeals Board