



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

AUG 19 2004



Re: Case # 196603, Bethlehem Steel Corporation Pension Plan

Dear

The Appeals Board has reviewed your appeal of PBGC's January 16, 2004 determination that your annuity starting date may be no earlier than January 1, 2004. As explained below, we changed PBGC's determination by finding that your annuity starting date is June 1, 2003.

PBGC's January 16, 2004 letter explained that, under PBGC policy, retroactive payments are generally not permitted and annuity starting dates must be prospective. That letter also noted that PBGC provided a window under the Bethlehem Plan during which participants eligible to retire immediately could receive retroactive payments. PBGC said a letter was mailed to your correct address on August 20, 2003, indicating that the window was closing and asking you to submit an application immediately. Because you did not respond in a timely fashion, PBGC told you the window closed and they cannot process a retroactive retirement.

According to your February 12, 2004 appeal, you never received any information explaining that you were eligible to start drawing your pension while you were still working or that it would be retroactive to June 1, 2003. You noted that you work out of your home in Atlanta and do not have regular contact with other ISG employees. You said you first learned you could be drawing a pension December 1, 2003, during a visit to Sparrows Point. That morning you called PBGC to request payment of your pension retroactive to June 1, 2003. You also said you first learned about the window in a follow-up call with PBGC on January 6, 2004.

The files available to the Appeals Board show that, effective January 1, 2004, PBGC began paying you an estimated benefit of \$2,588.09 as a Joint and 50% Survivor "Pop-up" Annuity.

Discussion

The Bethlehem Plan terminated, effective December 18, 2002, without sufficient assets to provide all benefits and PBGC became the Plan trustee. According to the files PBGC's auditors

obtained from the former Plan Administrator, you were an active employee on December 18, 2002 and could have retired under the terms of the Plan on that date with an immediate annuity.

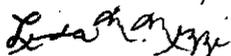
PBGC's January 16, 2004 letter correctly explained that PBGC's *Annuity Starting Dates* policy generally prohibits retroactive annuity starting dates. Because of the unique circumstances of the Bethlehem termination, however, PBGC decided to permit retroactive annuity starting dates for participants eligible for an immediate annuity, provided they submitted an application for the benefit and elected a retroactive start date within the time period specified in PBGC's letter notifying them of this option. The annuity starting date for participants who did not respond within the specified time period would be prospective only.

Decision

Based on the circumstances of this case, the Appeals Board changed PBGC's January 16, 2004 determination by finding that your annuity starting date is June 1, 2003. PBGC's Insurance Operations Department (IOD), the organization responsible for determining and paying benefits, will adjust your *estimated* benefit to reflect the corrected annuity starting date. IOD will send you a formal determination of your benefit amount, with a new 45-day appeal right for matters not addressed in this decision, after they finish auditing participant and Plan data.

Meanwhile, if you have questions about your benefit, please call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,



Linda M. Mizzi
Member, Appeals Board