

EC22F7FD2-889D-4E10-B



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

1557296

November 13, 2003

[Redacted]

Re: Appeal [Redacted]
Beneficiary of [Redacted] Schlensker Drilling
Defined Benefit Pension Plan ("Plan")

Dear [Redacted]

We are responding to your appeal of PBGC's September 29, 2000 determination that your survivor's benefit is a \$223.34 per month, Straight Life annuity. PBGC calculated you were overpaid \$11,416.86. As explained below, we are changing your guaranteed benefit to \$384.20 per month. You have been underpaid instead of overpaid.

Your Appeal

In your March 29, 2001 appeal, asked why PBGC waited until 2000 to determine your \$335.27 estimated-PBGC benefit was too high. You stated PBGC error caused your overpayments, and reducing your benefit now creates financial hardship for you. You concluded PBGC should continue to pay you \$335.27 per month.

Pre-Retirement Survivor Annuity

The Plan provides you a Pre-Retirement Survivor's Annuity (PSA) because your husband died before retiring. Your Plan-provided PSA is an annuity with the same actuarial value as the value of your late husband's accrued benefit. [Plan Sections 5.5(b)(v) and 5.8(a)]

Relevant Data

- Your husband last worked on June 18, 1987, the Plan's termination date.
- On July 15, 1990 your husband died, at age 60 years 4 months.
- On September 24, 1990, the Plan's administrators offered you choices for your Plan-PSA's annuity form, including:
 - i) a \$496.30 per month temporary 120-month certain-term annuity, or
 - ii) a \$384.20 per month Straight Life Annuity.

You chose the temporary but larger \$496.30 monthly benefit. See Enclosure 1. Your \$496.30 benefit started effective September 1, 1990.

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- Effective June 1, 1992, your benefit was reduced to your current \$335.27 estimated PBGC benefit, a Straight Life Annuity.¹

PBGC's Determination

PBGC determined your Plan-provided PSA is not a "qualified pre-retirement annuity" (or "QPSA") as defined in the law. Therefore, PBGC determined your guaranteed benefit is only the Plan's "minimum spouse's death benefit." [Plan sections 5.5(h) & (i)] Thus, PBGC calculated your guaranteed benefit as a \$223.34² per month Straight Life Annuity.

Your Plan-provided PSA is Qualified

The Appeals Board has found a plan-provided PSA based on the actuarial value of a deceased spouse-participant's accrued benefit is "qualified" under the law. Furthermore, the Board decided your PSA was not disqualified by the Plan administrator's decision to offer you alternate annuity forms. Therefore, the Board decided PBGC guarantees your Plan-provided PSA.

Your Benefit Form

PBGC guarantees only life annuities. Thus, PBGC determined PBGC must pay your QPSA as a Single Life Annuity.

Decision

The Appeals Board decided your guaranteed benefit is the \$384.20 per month Straight Life Annuity the Plan administrator calculated for you. You have been underpaid instead of overpaid. PBGC's Authorized Representative will contact you about paying your past underpayments plus interest.

¹ Your benefit was temporarily suspended at the end of May 1992, before PBGC became the Plan's trustee in 1994. On February 1, 1994: i) PBGC started paying you \$335.27 per month, and ii) PBGC issued you a second check for \$6,705.40 (\$335.27 x 20 months, June 1992 through January 1994). PBGC omitted interest now due for the 20 months June 1992 through January 1994.

² \$496.30 x 90% J&S Factor x 50% Survivor benefit. PBGC mistakenly: i) used the \$496.30 benefit you were receiving instead of your late husband's \$610.70 (\$7,328.38 ÷ 12 months) accrued benefit, and ii) omitted actuarial reduction for starting your benefit before your husband's age 65.

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Thank you for your patience during this careful review of your appeal. If you have any questions, please contact PBGC's Authorized Representative at 800-400-7242.

Sincerely,

William D. Ellis

William D. Ellis
Appeals Board Member

Enclosure:

- 1) The Application to Retire signed by you on September 24, 1990
(2 pages)