

# WHAT YOU SHOULD KNOW ABOUT YOUR RETIREMENT



This publication has been developed by the U.S. Department of Labor, Employee Benefits Security Administration (EBSA).

To view this and other publications, visit the agency's Website at **[www.dol.gov/ebsa](http://www.dol.gov/ebsa)**.  
To order publications, or to speak with a benefits advisor, contact EBSA electronically at **[www.askebsa.dol.gov](http://www.askebsa.dol.gov)**.  
Or call toll free **1-866-444-3272**.

This material will be made available in alternative format to persons with disabilities upon request:

Voice phone: (202) 693-8664  
TTY: (202) 501-3911

This booklet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

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## ▶ CHAPTER 10: WHAT TO DO IF YOU HAVE A PROBLEM

Sometimes, retirement plan administrators, managers, and others involved with the plan make mistakes. Some examples include:

- ▶ Your **401(k)** or individual account statement is consistently late or comes at irregular intervals;
- ▶ Your account balance does not appear to be accurate;
- ▶ Your employer fails to transmit your contribution to the plan on a timely basis;
- ▶ Your **plan administrator** does not give or send you a copy of the **Summary Plan Description**; or
- ▶ Your benefit is calculated incorrectly.

It is important for you to know that you can follow up on any possible mistakes without fear of retribution. Employers are prohibited by law from firing or disciplining employees to avoid paying a benefit, as a reprisal for exercising any of the rights provided under a plan or Federal retirement law (**ERISA**), or for giving information or testimony in any inquiry or proceeding related to ERISA.

### **START WITH YOUR EMPLOYER AND/OR PLAN ADMINISTRATOR**

If you find an error or have a question, in most cases, you can start by looking for information in your Summary Plan Description. In addition, you can contact your employer and/or the plan administrator and ask them to explain what has happened and/or make a correction.

### **IS IT POSSIBLE TO SUE UNDER ERISA?**

Yes, you have a right to sue your plan and its **fiduciaries** to enforce or clarify your rights under ERISA and your plan in the following situations:

- ▶ To appeal a denied claim for benefits after exhausting your plan's claims review process;
- ▶ To recover benefits due you;
- ▶ To clarify your right to future benefits;
- ▶ To obtain plan documents that you previously requested in writing but did not receive;
- ▶ To address a breach of a plan fiduciary's duties; or
- ▶ To stop the plan from continuing any act or practice that violates the terms of the plan or ERISA.

### **WHAT IS THE ROLE OF THE LABOR DEPARTMENT?**

The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) is the agency responsible for enforcing the provisions of ERISA that govern the conduct of plan fiduciaries, the investment and protection of plan assets, the reporting and disclosure of plan information, and participants' benefit rights and responsibilities.

However, not all retirement plans are covered by ERISA. For example, Federal, state, or local government plans and some church plans are not covered.

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The Department of Labor enforces the law by informally resolving benefit disputes, conducting investigations, and seeking correction of violations of the law, including bringing lawsuits when necessary.

The Department has benefits advisors committed to providing individual assistance to participants and beneficiaries. Participants will receive information on their rights and responsibilities under the law and help in obtaining benefits to which they are entitled.

Contact a benefits advisor electronically at [www.askebsa.dol.gov](http://www.askebsa.dol.gov) or by calling toll free 1-866-444-3272.

## **ACTION ITEMS**

Contact the Department of Labor's EBSA for questions about ERISA, help in obtaining a benefit, or:

- ▶ If you believe your claim to benefits has been unjustly denied or that your benefit was calculated incorrectly;
- ▶ If you have information that plan assets are being mismanaged or misused;
- ▶ If you think the plan fiduciaries are acting improperly; or
- ▶ If you think your employer has been late in depositing your contributions (see Chapter 7).

## **WHAT OTHER FEDERAL AGENCIES CAN ASSIST PARTICIPANTS AND BENEFICIARIES?**

The Pension Benefit Guaranty Corporation (PBGC) is a federally created corporation that guarantees payment of certain pension benefits under most private defined benefit plans when they are terminated with insufficient money to pay benefits.

You may contact the PBGC at:

Pension Benefit Guaranty Corporation  
1200 K Street, NW  
Washington, DC 20005-4026  
Tel (202) 326-4000  
Toll free 1-800-400-7242  
[www.pbgc.gov](http://www.pbgc.gov)

The Treasury Department's Internal Revenue Service is responsible for the rules that allow tax benefits for both employees and employers related to retirement plans, including vesting and distribution requirements. The IRS maintains a taxpayer assistance line for retirement plans at 1-877-829-5500 (toll-free number). The call center is open Monday through Friday.