PBGC
Protecting America's Pensions

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

October 30, 2013

[redacted]

Re: Appeal 2012-[redacted], Case # 196603, Bethlehem Steel Corporation Pension Plan

Dear [redacted]:

The Appeals Board has reviewed your appeal of PBGC's April 6, 2011 determination of your PBGC-payable benefit under the Bethlehem Plan. For the reasons discussed below, we changed PBGC's determination by finding that you are entitled to $1,720.68 per month, payable from the Plan's December 18, 2002 termination date through [redacted], 2004, and to $1,718.56 per month thereafter.

PBGC's Benefit Determination and Your Appeal

PBGC's letter said that you are entitled to a regular PBGC-payable benefit of $1,558.55 per month, as a Straight Life Annuity with a Five-Year Certain feature, based on your "separate-interest" Qualified Domestic Relations Order ("QDRO"). PBGC also said that, because the amount you are entitled to is less than the amount you are currently receiving ($1,885.03 per month) on an estimated basis, you have been overpaid (then equal to $48,266.15). PBGC explained that the overpayment "represents the amount of past payments that were over and above the limits set by Congress" and that your future benefit will be reduced by not more than 10% ($155.85 per month) until you have repaid the total overpayment, without interest.

PBGC also included with its determination a benefit statement with the information PBGC used to calculate your benefit. The statement showed that you were entitled to a PBGC-payable benefit of $1,561.15 per month from December 18, 2002, the Plan's termination date, through [redacted], 2004. The statement also noted that the former Plan Administrator calculated your benefit using an incorrect QDRO offset amount ($1,147.91 per month instead of $649.60 per month). PBGC said that, after recalculating your benefit using the correct amount, you were entitled to a pre-termination plan liability of $8,471.27.

PBGC wrote you on June 29, 2011 to explain that, upon further research of Bethlehem Plan records, PBGC found that the Plan had included $10,464.51 in your [redacted] 2003 pension check to account for the Plan's having previously deducted the wrong QDRO offset. PBGC explained that you are not entitled to the pre-termination liability discussed in its April 6, 2011 benefit statement because the issue was resolved before PBGC took over your pension payments.

After receiving a filing extension and the information you requested under the Freedom of Information Act, you filed a timely appeal on October 4, 2011. Your appeal raised the following concerns:

- You referred to PBGC's letters of (1) October 14, 2003, which reduced your estimated benefit from $2,924.46 per month to $2,330.10 per month, and (2) March 10, 2004, which further reduced your estimated benefit to $1,885.03 per month. These letters said that "the guaranteed benefit amount will be about the same or just slightly different than the amount you have been receiving as an estimated benefit." You noted that PBGC has reduced your benefit a cumulative 52%, which is more than slightly. You also pointed out that, although PBGC's letters said it would take "up to three years" to determine guaranteed benefit amounts, it actually took over 8 years to make the final determination.

- You said you were told by PBGC staff during a conference call on September 1, 2011 that (1) QDROs were not taken into consideration in calculating the estimated benefit amounts shown in the October 14, 2003 letter and that the letter should not have been sent, and (2) the reduction from your estimated benefit of $1,885.03 to the final benefit of $1,558.55 was due to "incorrect methodology" in calculating the implications of the QDRO seven years earlier. You said this shows the overpayment is due to PBGC's errors, and not to limits set by Congress as stated in PBGC's April 6, 2011 determination.

- Your letter pointed out that, by its own admission, PBGC's letter of April 6, 2011 was the final determination of your benefit amount, including the payment of $8,471.27. You further noted that PBGC's letter of June 29, 2011 rescinded that notion -- yet another example of PBGC's miscalculation and miscommunication.

You said in conclusion that the reductions to your benefit have been communicated to you over a period of eight years and based on flawed calculations on the part of PBGC. PBGC's misstatements, miscalculations and unnecessary delays have made the task of responsibly planning for your financial future virtually impossible. You reject the final benefit amount and repayment of overpayments described in PBGC's letters of April 6, 2011 and June 29, 2011, and are willing to continue receiving the $1,885.03 amount you have based all of your future financial plans.

Background

When the Bethlehem 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 PBGC guarantees may be less than the benefits a pension plan would otherwise pay. Three of these limits, the "Accrued-at-Normal-Retirement-Age" limit, the "Maximum Guaranteeable Benefit" limit and the "Phase-in" limit apply to your benefit.

The records PBGC's auditors obtained from the former Plan administrator show that you were born on and your former spouse, , was born . The records further show that you and were married on and divorced on . You retired, effective , 2001, under the 30-Year Retirement provisions of the 1999 Steel Division component of the Bethlehem Plan (nonrepresented salaried employees). You elected to receive your benefit in the Plan's automatic form for a single participant, which for you is a Straight Life Annuity with a Five-Year Certain feature.

<u>Your Plan Benefit (Before the QDRO)</u>

Under the 1999 Steel Plan (nonrepresented salaried employees), your benefit is the highest of the amounts calculated under four different formulas: Minimum Pension formula, Percent Pension formula, Total Retirement Benefit (TRB) formula and Lifetime Minimum Pension formula. Because you elected to receive your Retirement Account Balance in a lump sum payment, your monthly Plan benefit is reduced by the annuity value of your Retirement Account Balance ("RAB").

The following shows your Plan benefit under each formula, payable in the Plan's Straight Life Annuity form with an Automatic Five-Year Certain feature, as of your , 2001 termination date. As of that date, you had 35.75 years of continuous service, average monthly earnings of $7,631.57, and a RAB offset of $270.85 per month.

Minimum Pension Formula:
($26.50 x 15.00 yrs.) + ($28.00 x 15.00 yrs.) + ($29.50 x 5.75 yrs.) = $987.13
$987.13 per mo - $270.85 [RAB offset] = $716.28 per mo.

Percent Pension Formula:
(1.2% x 20.00 yrs. x $7,631.57) + (1.5% x 10.00 yrs. x $7,631.57)
+ (1.6% x 5.75 yrs. x $7,631.57) = $3,678.42
$3,678.42 per mo - $270.85 [RAB offset] = **$3,407.57 per mo.**

TRB before age 62:
(1.575% x 30.00 yrs. x $7,631.57) + (1.6% x 5.75 yrs. x $7,631.57) = $4,308.02
$4,308.02 x .8925 [early retirement factor] = $3,844.91 per mo.
$3,844.91 - $270.85 [RAB offset] = **$3,574.06** per mo.

TRB after age 62:
$4,308.02 - $715.54 [Social Security offset] = $3,592.48
$3,592.48 - $270.85 [RAB offset] = $3,321.63 per mo.

Lifetime Minimum Formula:
$2,000 - $270.85 [RAB offset] = $1,729.15 per mo.

Your Plan benefit is highest under the TRB formula before age 62 and under the Percent formula after age 62.

Thus, if the Plan had not terminated and there were no QDRO, you would have received :

- $3,574.06 per month from your retirement date through , 2004 (the month in which you turned age 62); and
- $3,407.57 per month from , 2004 forward.

Your Qualified Domestic Relations Order

In general, ERISA and the Internal Revenue Code (the "IRC") permit a pension benefit to be assigned away from a participant only in situations involving certain domestic relations orders that meet the specific legal requirements to be "qualified." There are two basic types of domestic relations orders: shared-payment orders and separate-interest orders. A shared-payment order generally provides the Alternate Payee with a portion (or, in some cases, all) of the Participant's monthly pension *payments* during the Participant's lifetime, or for a specified shorter period. A separate-interest order essentially divides one benefit into two separate benefits and generally provides the Alternate Payee with a portion (or, in some cases, all) of the *value* of the Participant's benefit. The Alternate Payee's separate-interest benefit is often payable regardless of whether the Participant has entered pay status and payments usually continue beyond the Participant's death.

Plan files include a copy of a Domestic Relations Order filed with the Civil Division, Court of Common Pleas of Lehigh County, Pennsylvania, on , 1996. The Order, which named you as the Participant and your former spouse, , as the Alternate Payee, provided in part that --

- The Alternate Payee's Annuity Starting Date is as soon as administratively practicable subsequent to the qualification of this Domestic Relations Order.
- The Plan will pay benefits to the Alternate Payee in the form of a single life annuity, based on the Alternate Payee's life, actuarially adjusted for said Alternate Payee's age at the date benefit payments commence to the Alternate Payee.
- The benefit of the Alternate Payee shall be paid directly to said Alternate Payee by the Plan on a monthly basis. The form of benefit to be used for the calculation of the benefit to be paid to the Alternate Payee is the normal form of benefit payable to an unmarried

Participant, as such form of benefit is defined in the Plan. The procedure to calculate the amount due to the Alternate Payee is as follows:

Step 1: The Plan Administrator shall determine the total accrued benefit payable to the Participant as of September 1, 1990.

Step 2: The Alternate Payee must be paid a percentage of the Step 1 benefit. The percentage of the Step 1 benefit to be paid to said Alternate Payee is: 65%.

By letter dated September 23, 1996 (see Enclosure 1), the Assistant Secretary of the Employee Benefits Administration Committee for Bethlehem Steel notified you of his determination that the , 1996 Order is a separate-interest Qualified Domestic Relations Order ("QDRO"). This letter described the terms of the QDRO as follows:

Amount Payable to Alternate Payee: $409.50 per month

Month in which first payment is made: September 1996

Duration: Lifetime of the Alternate Payee

Plan records further show that Bethlehem Plan officials had determined that 65% of your accrued monthly benefit as of September 1, 1990 was $1,147.91 per month, if paid as a Straight Life Annuity beginning , 2007, the first of the month following your 65th birthday.[1] By letter dated July 17, 2001, a Bethlehem Benefits Representative advised you that your regular monthly pension would be reduced by $1,147.91 per month to implement the QDRO (see Enclosure 2). On April 21, 2003, the Benefits Representative wrote to explain that the $1,147.91 per month QDRO offset was too high and that the correct amount was $649.60 per month (see Enclosure 3). The new offset amount was reduced from the age-65 offset amount to account for the fact that you retired at age 58.4167. (This letter also discussed the Plan's reimbursing you for the underpayments.)

Although the Plan reduced the QDRO offset (subtraction) amount to take into account your age at retirement, your underlying accrued monthly benefit was not reduced to take age into account. As a 30-Year retiree, you were entitled to receive your full accrued monthly benefit (i.e., the Plan benefit you would receive if payments began at age 65) without reduction for your age. In general, the difference between an unreduced benefit at age 58.4167 and an actuarially-reduced benefit at age 58.4167 is referred to as the "early retirement subsidy" or "subsidy."

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[1] The lower amount the Plan actually paid the Alternate Payee reflects her age as of her , 1996 annuity start date.

PBGC's Policy 6.6-3 (*Qualified Domestic Relations Orders*) provides that, in cases where a separate-interest QDRO is silent as to whether all or part of a participant's early retirement subsidy must be paid to the alternate payee, PBGC will generally not pay any portion of the subsidy to the alternate payee.[2] We note that the former Bethlehem Plan Administrator followed the same practice when a separate-interest QDRO was silent on early retirement subsidies and did not pay any portion of the subsidy to the alternate payee. The QDRO offset amounts cited earlier reflected this practice.

To summarize, if the Plan had <u>not</u> terminated, after <u>taking into account your QDRO</u>, you would have received:

- $2,924.46 per month ($3,574.06 - $649.60) from your retirement date through [redacted], 2004 (the month in which you turned age 62); and

- $2,757.97 per month ($3,407.57 - $649.60) from [redacted], 2004 forward.

<u>ERISA Limits Affecting Your Benefit</u>

A. *<u>Accrued-at-Normal-Retirement-Age Limit</u>*

PBGC cannot guarantee any portion of a participant's pre-age 62 benefit unless the benefit, when added to his or her regular monthly benefit, is less than or equal to the benefit the participant would otherwise receive under the Plan at his or her normal retirement age (age 65) in the form of a Straight Life Annuity (see PBGC's regulation on *Benefits Payable in Terminated Single-Employer Plans* (the "benefits regulation"), 29 Code of Federal Regulations § 4022.21(a)(1)).

Your Accrued-at-Normal limit is $3,407.57 per month, which is the amount the Bethlehem Plan would have paid you as a Straight Life Annuity at age 65 (before the RAB and QDRO offsets) if the Plan had not terminated. Accordingly, PBGC cannot guarantee the $166.49 additional amount ($3,574.06 - $3,407.57) of your Plan benefit payable under the TRB formula prior to age 62.

B. *<u>Maximum Guaranteeable Benefit ("MGB")</u>*

Section 4022(b)(3) of ERISA provides that PBGC's guarantee of a participant's plan benefit cannot exceed a specified dollar amount payable in the form of a Straight Life Annuity at age 65. For a plan like yours with a termination date in 2002, the MGB is $3,579.55 per month in the form of a Straight Life Annuity for a participant who is age 65 on the Plan termination date. Because (1) you began receiving your benefit before the Plan terminated and before your age 65 and (2) your regular Plan benefit is in the form of a Straight Life Annuity with an Automatic Five-Year Certain

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[2] There is an exception to this general rule that does not apply here.

feature, PBGC must adjust the $3,579.55 amount to take into account your age and your benefit form. Sections 4022.22 and 4022.23 of PBGC's benefits regulation prescribe the rules for adjusting the MGB.

1. <u>Age Adjustment Factor</u>

The MGB for a participant who begins receiving a benefit before age 65 must be reduced to reflect the number of whole months between (1) the later of the participant's age at the Plan's termination date and his age at retirement, and (2) age 65. In your case, the later date in (1) is your age at the plan termination date, December 18, 2002. On that date, you were age years, month and days, with whole months remaining until you reached age 65. Under the regulation, this reduction is equal to 7/12 of 1% for each of the first 60 months, 4/12 of 1% for each of the next 60 months, and 2/12 of 1% for each of the next 120 months. Thus, your age adjustment factor equals:

1.0 - [(7/12 x 0.01 x months) = 1.0 - 0.3383 = 0.6617

2. <u>Form Adjustment Factor</u>

The Bethlehem Plan does not reduce your regular monthly benefit to provide for the Five-Year Certain feature. However, PBGC's benefits regulation requires PBGC to account for their value in the calculation of the MGB. To adjust for the Five-Year Certain feature, the MGB must be reduced by 1/24 of 1% for each of the first 60 months and 1/12 of 1% for each month beyond 60 months for each whole month remaining in the certain period after the date of Plan termination. Under the Bethlehem Plan, your Five-Year Certain benefit ended , 2006, which is whole months after December 18, 2002. This period-certain adjustment factor is: 1.0 - (1/24 x 0.01 x) = 1.0 - 0.0125 = 0.98375.

Using the factors shown above, your MGB (before the QDRO) in the Plan's Straight Life Annuity form with an Automatic Five-Year Certain feature is:

$3,579.55 [age-65 MGB] x 0.6617 [age adjustment] x 0.98375[form adjustment] = **$2,330.10** per month

C. *<u>Phase-in Limit</u>*

Sections 4022(b)(1) and 4022(b)(7) of ERISA provide for the phase-in of PBGC's guarantee of "any increase in the amount of benefits under a plan resulting from a plan amendment made or effective within the five years before the Plan termination." This phase-in is equal to the greater of 20 percent of the benefit increase per month, or $20.00 per month (but not more than the increase itself), for each <u>full</u> year the Plan amendment was in effect before Plan termination. Under ERISA, the time a benefit increase is in effect begins with the later of the date the increase was adopted or the date it became effective, and ends on the plan's termination date.

Under the 1999 Steel Plan, your benefit is the highest of the amounts calculated under three different formulas: the Minimum Pension Formula, the Percent Pension Formula, and the Total

Retirement Benefit Formula (TRB). Plan amendments adopted within five years of the Plan's termination date increased your Plan benefit under the last two formulas. These increases were adopted by Bethlehem on September 7, 1999, and took effect January 1, 2000.

Your Plan benefit has to be calculated under the Plan provisions in effect five years before the Plan's December 18, 2002 termination date in order to apply the phase-in limit and to take into account the QDRO offset to your benefit. Your benefit under each formula is shown below. Please note that, because you elected to receive your Retirement Account Balance in a lump sum, your monthly Plan benefit must be reduced by $270.85 per month, which is the annuity value of your Retirement Account Balance (RAB).

Minimum Pension Formula:
($26.50 x 15.00 yrs.) + ($28.00 x 15.00 yrs.) + ($29.50 x 5.75 yrs.) = $987.13
$987.13 - $270.85 [RAB] = $716.28 per mo.

Percent Pension Formula:
(1.155% x 30.00 yrs. x $7,631.57) + (1.26% x 5.75 yrs. x $7,631.57) = $3,197.25
$3,197.25 - $270.85 [RAB] = $2,926.40 per mo.

TRB before age 62:
(1.50% x 35.75 yrs. x $7,631.57) = $4,092.43
($4,092.43 x 0.8925 [early retirement] x 1.05) - $270.85 [RAB] = **$3,564.27** per mo.

TRB after age 62:
{($4,092.43 - $715.54 [Social Security offset]) x 1.05} - $270.85 [RAB] = **$3,274.88**

Lifetime Minimum Formula:
None in Plan

Under five-year old Plan provisions, your Plan benefit is highest under the TRB both before and after age 62. Because your MGB ($2,330.10) is lower than your Plan benefit calculated above, there is no "benefit increase" to be phased-in.[3] Your guaranteeable Plan benefit (before the QDRO offset) under five-year-old Plan provisions is the lesser of the benefit calculated above and your MGB. In your case, the lesser amount is your MGB of $2,330.10 per month.

Your PBGC-Guaranteed Benefit

When PBGC becomes trustee of a terminated plan, PBGC must develop a method for calculating estimated benefits both for participants who start receiving benefits shortly after plan termination and already-retired participants whose Plan benefits exceed PBGC's guarantee. This

[3] However, a phase-in calculation is required in calculating the early retirement subsidy discussed on page 9 of this decision because your Plan benefit reduced for early retirement and calculated under five-year old Plan provisions is less than your MGB.

estimated method is used until PBGC can collect plan records, audit plan data and develop plan-specific benefit calculation and valuation programs.

As you noted in your appeal, after PBGC began paying you an estimated benefit amount, PBGC changed its methodology for allocating benefit cutbacks resulting from the ERISA guarantee limits between the participant and the alternate payee. Please note that PBGC regularly reviews its procedures and revises them as necessary to correct errors or conform to current policy. PBGC's review of its QDRO procedures was underway when the Bethlehem Plan terminated and the revised procedures took effect shortly thereafter. However, the Appeals Board found an error in the way PBGC's April 6, 2011 determination applied the revised methodology.

Your benefit calculated under Plan provisions in effect when you retired (see page 3 of this decision) and also under Plan provisions in effect five years before the Plan terminated (see page 8) are based on your 30-Year retirement benefit unreduced for age. PBGC's methodology for allocating benefit cutbacks between the participant and the alternate payee is complex and requires, among other things, that PBGC calculate the early retirement subsidy which, for this purpose, is based on a calculated actuarially-equivalent early retirement factor ("ERF"). In your case, the actuarially-equivalent ERF for a participant who retires at age 58.4167 is 0.5465. This ERF is applied to your benefit under Plan provisions in effect at your retirement date and to your benefit under Plan provisions in effect five years before the Plan terminated

PBGC's methodology also requires that PBGC calculate an "AP%" to be used in calculating the PBGC-payable benefit for the AP. The numerator of the AP% is $1,147.91, which is the amount of your QDRO offset if paid as a Straight Life Annuity beginning at age 65 (from page 5 of this decision). The denominator is your accrued monthly benefit payable at age 65 under the Plan provisions in effect five years before the Plan terminated (your post-62 TRB benefit of $3,274.88 from page 8). Therefore, the AP% is $1,147.91 ÷ $3,274.88, or 35.05%.[4] One minus the AP%, or 64.95%, is used in determining your PBGC-payable benefit.

Enclosure 3 to this decision is a table showing a detailed calculation of your final PBGC-payable benefit amounts. To summarize: the Appeals Board concluded that PBGC's April 6, 2011 determination did not correctly take into account the early retirement subsidy. The Board found that your PBGC-guaranteed benefit, after taking the QDRO into account, is $1,681.81 per month (from line 62 of the table), instead of $1,513.40 per month (from line 38).

Your PBGC-Payable Benefit

Under certain circumstances, section 4022(c) of ERISA authorizes PBGC to pay additional benefits (i.e., benefits that PBGC could not otherwise legally guarantee) based on amounts that

[4] Paragraph 14 of your separate-interest QDRO provides guidance on calculating the benefits payable to the Alternate Payee in the event of Plan termination. We noted that PBGC's methodology for calculating an "AP%" that is used in determining the AP's PBGC-payable benefit is consistent with the provisions in paragraph 14 of your separate-interest QDRO.

PBGC recovers from sponsors of terminated underfunded pension plans. PBGC determined that, due to section 4022(c), PBGC can pay a small portion of your *unfunded nonguaranteed* benefit, which results in a final PBGC-payable benefit, in the Plan's Straight Life Annuity with a Five-Year Certain feature (since expired) of:

Before age 62: $1,681.81 [guaranteed] + $38.87 [4022(c)] = **$1,720.68 per month**

After age 62: $1,681.81 [guaranteed] + $36.75 [4022(c)] = **$1,718.56 per month**

While we are sympathetic to your situation, PBGC and the Appeals Board must follow the terms of the Plan, the law and PBGC regulations and policies.

Length of Time for PBGC Determination

As you noted in your appeal, the benefit statement PBGC included with its April 6, 2011 determination stated that the former Plan Administrator calculated your benefit using an incorrect QDRO offset amount ($1,147.91 per month instead of $649.60 per month) and that, as a result, you were entitled to a pre-termination plan liability of $8,471.27. Plan officials had previously advised you of this error on April 21, 2003. Although this letter said that Bethlehem would include the total underpayment amount in your April 2003 pension, PBGC staff initially assumed the payment had not been made because lump-sum payments were restricted during the transition from Bethlehem's plan administration to PBGC's. PBGC later determined that the Plan had included the underpayment in your 2003 pension check.

You also appealed the length of time it took for PBGC to make a final determination. You said that, instead of "up to three years," it actually took over 8 years to make a final determination. You noted that this unnecessary delay made it virtually impossible for you to plan responsibly for your financial future.

When PBGC becomes trustee of a terminated plan, PBGC must collect plan records, audit plan data and determine the benefits PBGC can legally pay. This process can be complex and time-consuming, especially in a Plan like the Bethlehem Plan with several component plans, complex Plan provisions and more than 90,000 participants. While PBGC's goal is to issue all benefit determinations within a few years of a plan's termination, the length of time PBGC takes to determine final benefit amounts payable under ERISA and PBGC's regulations is not subject to appeal.

Recoupment of Overpayments

PBGC continues to pay retirees, on an estimated basis, the same benefits they were receiving from the former Plan Administrator while PBGC completes its processing of the terminated plan. If the estimated amounts are too high, PBGC must recover the overpayments and does so by reducing the participant's future benefit, generally by not more than 10%, until the overpayment is repaid. PBGC does not charge interest on the overpayments.

Although PBGC is responsible for making pension payments and for limiting Plan benefits to the guaranteed level as of the Plan's termination date, the former paying agent usually continues making the payments for a short period of time for administrative reasons. In this case, the Bethlehem Plan continued to make monthly benefit payments through August 2003. PBGC (through its paying agent, State Street Bank) took over benefit payments, effective September 1, 2003, and initially continued to pay you the same $2,924.46 per month the Plan was then paying you. To avoid the possibility of large overpayments, PBGC estimated the effect of the ERISA legal limits, and reduced your estimated benefit amount to $2,330.10 per month beginning December 1, 2003, and then to $1,885.03 per month beginning May 1, 2004.

Although your final PBGC-payable benefit amounts are higher than the amounts shown on PBGC's April 6, 2011 determination, the final benefit amounts are still lower than the estimated benefits you have been receiving. Accordingly, you have been overpaid since the Plan terminated and PBGC must temporarily reduce your future PBGC payments by not more than 10% until the overpayment is repaid (without interest).

Decision

Having applied the terms of the Plan, the provisions of ERISA and PBGC regulations and policies to the facts in this case, the Appeals Board changed PBGC's April 6, 2011 determination by finding that you are entitled (before recoupment) to (1) $1,720.68 per month (instead of $1,561.15) from the Plan's December 18, 2002 termination date through , 2004, the first of the month in which you turned age 62, and (2) $1,718.56 per month (instead of $1,558.55 per month) from , 2004 forward. Your benefit is payable as a Straight Life Annuity with a Five-Year Certain feature (since expired). This is the Agency's final decision on this matter and you may, if you wish, seek court review of this decision.

We will forward a copy of this decision to PBGC's Benefits Administration and Payment Department, the organization responsible for determining and paying benefits. They will implement this decision and recalculate your overpayment amount.

Thank you for your patience while we completed our review. If you have questions, please call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,

Linda M. Mizzi
Member, Appeals Board

Enclosures (4)