

APPEAL PROCEDURE**14.01 (a) Initial Benefit Determination.**

Any person whose application for benefits under the Pension Plan has been denied in whole or in part by the Board of Trustees, or whose claims to benefits otherwise is denied, or who otherwise is adversely affected by any action of the Board of Trustees, shall be given prompt written notice of such adverse benefit determination and may petition the Board of Trustees to reconsider its decision. The notice of adverse benefit determination shall be given within a reasonable period of time, but not later than ninety (90) days after receipt of the claim by the Plan, unless special circumstances require an extension of time for processing the claim. If such an extension is required, written notice shall be furnished to the claimant prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of ninety (90) days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the benefit determination.

The period of time within which a benefit determination is required to be made shall begin at the time a claim is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination accompanies the filing.

The notice of adverse benefit determination shall be phrased in terms calculated to be understood by the claimant and shall:

- (1) State the specific reason(s) for the adverse determination;
- (2) Refer to the specific Plan provisions on which the determination is based;
- (3) Describe any additional material or information necessary for the claimant to perfect the claim with an explanation why such material or information is necessary;
- (4) Describe the Plan's review procedures and the time limits applicable to such procedures; and
- (5) Set forth a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review.

(b) Benefit Determination Upon Review.

A claimant may file a petition for reconsideration of an adverse benefit determination. Such petition shall be in writing and shall state in clear and concise terms the reason or reasons for disagreement with the Plan's determination. The claimant's petition shall be filed with the Administration Office within sixty (60) days following receipt of a notification of an adverse benefit determination. The Board may consider a late application if it concludes the delay in filing was for reasonable cause.

The failure to file a petition for reconsideration within the sixty (60) day period shall constitute a waiver of the claimant's right to reconsideration of the decision. Such failure shall not, however, preclude the applicant or claimant from establishing his entitlement at a later date based on additional information and evidence which was not available to him at the time the denial became effective.

When any such petition is received, the claim and adverse benefit determination shall receive a full and fair review by the Board of Trustees or any sub-committee to which it delegates this function.

As part of the review procedure, the claimant will be provided the opportunity to submit written comments, documents, records, and other information relating to the claim for benefits. The claimant shall also be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits (a document, record, or other information will be considered "relevant" if such document, record, or other information was (i) relied upon in making the benefit determination; (ii) was submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination; (iii) demonstrates compliance with the administrative process and safeguards established to ensure and verify that benefit claim determinations are made in accordance with governing Plan documents and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated claimants). The review procedure will also take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

The claimant shall have no right to appear personally before the reviewing group unless that group concludes that such an appearance would be of value in enabling it to perform its obligations hereunder.

If a benefit determination upon review is to be made by the Board or the subcommittee which is holding regularly scheduled meetings at least quarterly, the benefit determination shall be made no later than the date of the first such meeting which occurs at least 30 days following receipt of the request for review; but if special circumstances require an extension of time for processing, the benefit determination shall be rendered not later than the third meeting following receipt of the request. The claimant shall be notified of the benefit determination as soon as possible, but not later than five (5) days after the benefit determination is made. In all other cases, the claimant shall be notified of the Plan's benefit determination upon review within a reasonable period of time, but not later than sixty (60) days after receipt of the request for review, unless special circumstances require an extension of time for processing the claim; in no event shall such extension exceed a period of sixty (60) days from the end of the initial period.

Whenever special circumstances require an extension of time for processing, written notice of the extension shall be furnished to the claimant before the extension period begins. Such notice shall describe the special circumstances and the date as of which the benefit determination will be made.

The period of time within which a benefit determination on review is required to be made shall begin at the time an appeal is filed in accordance with the reasonable procedures of the Plan, without regard to whether all the information necessary to make a benefit determination on review accompanies the filing. In the event that a period of time is extended due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review shall be tolled from the date on which the notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.

The claimant shall be provided with written notification of the Plan's benefit determination on review. In the case of an adverse benefit determination, the notification shall set forth, in a manner calculated to be understood by the claimant, the information described in paragraphs (1), (2), and (5) of Section 14.01 (a). In addition, the notification shall state that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.

The decision of the Board of Trustees or the subcommittee with respect to the petition for reconsideration shall be final and binding upon all parties, including the petitioner and any person claiming under the petitioner.

(c) **Miscellaneous.**

This procedure sets forth the exclusive remedy for Participants and beneficiaries to perfect any and every claim or right asserted under the Plan or against the Fund, regardless of when the act of omission upon which the claim is based occurred. No court suit or action may be brought for benefits under the Trust or the Plan to enforce any rights thereunder without compliance with this procedure and the only action that may then be brought shall be to enforce the decision of the Board of Trustees.

In the case of the failure of the Plan to establish or follow claims procedures consistent with the requirements of 29 CFR Section 2560.503-1, a claimant shall be deemed to have exhausted the administrative remedies available under the Plan and shall be entitled to pursue any available remedies under Section 502(a) of ERISA on the basis that the Plan has failed to provide a reasonable claims procedure that would yield a decision on the merits of the claim.

These procedures do not preclude an authorized representative of a claimant from acting on behalf of such claimant in pursuing a benefit claim or appeal of an adverse benefit determination. Nevertheless, the Plan may establish reasonable procedures for determining whether an individual has been authorized to act on behalf of a claimant.