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Retiree Pension & Health Benefit Rights

What Are My Rights If I Have A Pension Plan?

Pension plans are benefit plans offered by employers according to specific rules established by that employer, as well as requirements of federal law. The specific rules of your employer's plan will determine what you are entitled to. Pension plans take different forms, depending on who contributes the money. Different types of pensions include defined benefit plans, profit-sharing plans, 401(k) plans, and cash balance plans.

If you have been employed by a company that has a pension plan, or are the spouse, common law spouse, former spouse, or surviving spouse of an employee or retiree with a pension plan, you may have enforceable pension rights. Employers who offer pension plans are required to provide plan participants and their beneficiaries with information about their pension rights, and to pay out the benefits that are due.

Can My Employer Change My Pension Or Health Benefit Plan?

While an employer cannot take away anything you have already earned toward your pension benefit (generally known as "vested benefits"), they are allowed to reduce, suspend, or eliminate entirely the pension you earn in the future. Generally, health insurance and other non-pension benefits, such as life and disability insurance, may be reduced or eliminated at any time. Underfunded pension plans may be required to eliminate certain forms of benefits, such as early retirement benefits.

What Is COBRA?

Some of your health insurance benefits are protected by federal law. The Consolidated Omnibus Budget Reconciliation Act of 1985, "COBRA", requires employers who maintain group health plans and have more than 20 employees to provide a continuation of coverage option to qualified individuals who might otherwise lose their group health insurance due to events such as the termination of employment, qualification for Medicare, divorce or death of the insured individual. Consult the Department of Labor for more information.

Are My Pension And Health Benefits Protected If My Employer Goes Out Of Business?

Unless you work for a very small company, traditional pensions – called defined benefit plans – are insured by a federal agency called the Pension Benefit Guaranty Corporation (PBGC). If your pension plan is terminated with insufficient funds to pay its benefit promises, the PBGC will guarantee your vested benefits up to certain maximum levels. The PBGC does not guarantee health benefits or benefits from individual account plans like 401(k)s and profit sharing plans.

Do Spouses Of Pensioners Have Any Special Protections?

Survivor Benefits Required: If a person is married at the time they are to begin receiving a pension, the plan must offer a pension benefit option that pays a monthly amount to the pensioner for the life of the pensioner plus at least half of that amount to the spouse upon the death of the pensioner. A spouse may choose to waive the survivor benefit, but the waiver must be done in writing.

Pre-Retirement Death: In the case of a vested participant who dies before receiving the pension, a benefit must be paid to the surviving spouse. This is a Qualified Pre-retirement Survivor Annuity.

Divorce: In the event of divorce, spouses have a right to pensions accrued by the other spouse during the marriage. In order to receive pension benefits directly as part of a divorce, the pension plan must receive and approve the court's order, called a Qualified Domestic Relations Order or QDRO. If the Court orders a division, but the order has not been approved or "qualified" by the pension plan, the plan will not pay the benefits. Governmental plans are not subject to QDROs, but most have specific provisions for divorcing participants.

Common Law Marriage:
In Ohio, common law marriage was abolished as of 1991. However, common law marriages established before 1991 are still valid. If you never legally married but believe you may be considered married by common law prior to 1991, you may be able to establish rights to a spouse's pension.

What Should I Consider When Choosing A Lump Sum Or An Annuity?

Many traditional pension plans offer more than one option for payment of a pension. Your choice should be made very carefully, because most plans do not allow you to change to a different option at a later date. Generally speaking, benefits paid out of individual account plans (like 401(k) or profit sharing plans) are available in a lump sum, or you can take smaller monthly payments instead. If the lump sum is below a certain amount, the plan can require you to take the lump sum.

Another option can be a benefit guaranteed for a specific number of years instead of a lifetime. Many factors should be considered in making this choice, including the health of the employee and the spouse, other resources, present and future, and the cost and risk of investing a lump sum. Consulting with a financial planner may be advisable to help you determine your best option.

Can I Be Excluded From Participating In A Pension Plan Because Of My Age?

Plan sponsors can deny participation to anyone under 21 (22 if you vest in your 401(k) plan after one year, and in some plans until age 26 if you vest immediately). No company needs to give you any credit for time worked prior to age 18. Before 1988, employers could exclude those employees who were hired within 5 years of normal retirement age, usually age 60 or older, and employees who left employment before reaching a certain age. All workers employed after the start of the 1988 plan year cannot be denied the right to participate in a pension plan solely because of age.

Whom Do I Contact For Information About My Pension Or Health Benefit Plan?

Using the information provided in the Summary Plan Description of your company pension, you should first contact the plan administrator. If you do not have that information, you should contact the Benefits or Pension Department at your employer. Many employers have websites with pension contact information. If your employer will not supply the requested information, if the company has closed or changed its name, or if you have questions or need assistance with pension or retirement problems, you can contact the Mid-America Pension Rights Intake at 866-783-5021.

Pro Seniors helps older Ohioans solve legal and long-term care problems and fight Medicare fraud. Our Legal Helpline provides free legal information and advice for Ohio residents aged 60 and older.

This fact sheet provides general information, not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Helpline or consult an attorney in elder law.

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