

Date: October 9, 2007
To: Employee Benefit Security Administration, Labor
Subject: 29 CFR Part 2520, RIN 1210-AB21
Multi-Employer Pension Plan Information Made Available on Request

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These comments and questions are submitted on behalf of Zenith Administrators, a nationwide Third Party Administrator (TPA) that provides services to the administrators of many multiemployer pension plans. Zenith generally supports EBSA's efforts to make critical documents available to participants and beneficiaries, but we have some concerns about the details.

The proposed rule does not require plan administrators to notify participants that copies of certain types of documents are available upon request. Nor does it require plan administrators to maintain reasonable procedures regarding such requests. Requiring such notices and procedures would be consistent with previous actions by the department, such as with respect to COBRA rights, and would likely be useful to both participants and plan administrators. The issues described below pertain to the details of such procedures.

Please clarify whether the "once during any 12-month period" limit described in paragraph § 2520.101-6(b)(3) applies to each particular document or each type of document. For example, would a plan administrator who receives quarterly financial reports from its TPA be obligated to furnish copies of each quarterly report in response to quarterly requests from the same requestor? Or would each requestor be limited to one annual request for copies of one or more financial reports prepared by the TPA?

Furthermore, will plan administrators be obligated to provide copies of specified documents to a third party acting on behalf of a participant or beneficiary? For example, would these obligations apply to a request from a family member, attorney, or union official acting on behalf of a participant? If so, how would the "once during any 12-month period" limit apply to separate requests for copies of the same document that a third party submits on behalf of multiple participants?

Paragraphs § 2520.101-6(c)(1)(i)-(ii) of the proposed rule specify that plan administrators are not required to furnish copies of actuarial and financial reports that have been in their possession less than 30 days. Please clarify a plan administrator's obligation upon receiving a request for a copy of a document less than 30 days after receiving the document being requested. Would it be appropriate to simply deny such requests for being untimely; and if so, are there specific requirements pertaining to such a denial? Alternatively, would the plan administrator be obligated to honor requests within 60 days after receiving the document or within 30 days after receiving the request, whichever occurs later?

Finally, the proposed rule does not specify any retention requirements for the types of documents of which copies must be furnished upon request, or place any other time limit on such requests. We believe that financial reports become less useful to participants and beneficiaries as newer versions of the same type of document are created. Therefore, plan administrators' obligation to furnish copies of outdated documents should not extend indefinitely. EBSA should specify a time limit for such requests and/or clarify that this regulation does not supersede existing document retention requirements.

We appreciate having the opportunity to comment on this proposed rule.
Thank you for considering these comments.

A handwritten signature in black ink, appearing to read "David S. Pittman". The signature is written in a cursive style with a horizontal line at the end.

David S. Pittman
Manager, Compliance
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