

Pension Benefit Guaranty Corporation

78-8

June 16, 1978

REFERENCE:

[*1] 4022 Benefits Guaranteed
29 CFR 2605. Guaranteed Benefits

OPINION:

This is in response to your letter enclosing an inquiry from your constituent, * * *, to * * *, * * *, Division of Benefits Administration, Pension Benefit Guaranty Corporation (the "PBGC"). Inasmuch as this manner presently is under consideration by this Office, * * * has forwarded your letter to this Office.

* * *, a participant in the Supplemental Agreement Covering Pensions by and between * * * * * and Local (the "Plan"), has applied for a disability benefit under the Plan, of which the PBGC is trustee. As you are aware, * * * maintains that she was disabled as of June 1974. However, the Social Security Administration (the "SSA") has determined that * * * was disabled within the meaning of the Social Security Act as of May 1975. * * * eligibility for a disability benefit turns on whether "before the date of plan termination she had satisfied the conditions of the [P]lan necessary to establish the right to receive the benefit prior to such date other than application for the benefit, satisfaction of a waiting period described in the plan, or retirement," in the language of the PBGC's Guaranteed Benefits Regulation, [*2] 29 C.F.R. § 2605.5(a)(3) (1977). Inasmuch as the Plan terminated on August 31, 1974, * * * disability must have arisen prior to that date in order for her to establish her eligibility for a disability benefit. Although the PBGC is not necessarily bound by the SSA's finding as to the date of disability, the existence and rationale of that finding may affect the evaluation by the PBGC of the additional evidence that may be available to substantiate * * * assertion of an earlier disability date.

We regret the delay in our response to * * * application, and we will make every effort to expedite processing of the case.

Henry Rose
General Counsel