

# NATIONAL ELEVATOR INDUSTRY PENSION PLAN

19 Campus Boulevard • Suite 200 • Newtown Square, PA 19073-3288  
800-523-4702 • www.neibenefits.org

## National Elevator Industry Pension Plan Summary of Material Modifications

**Date:** February 2018

**To:** All Participants in the National Elevator Industry Pension Plan, I.U.E.C. Locals and Regional Directors

**From:** Robert O. Betts, Jr.  
Executive Director for the Board of Trustees

### UPDATED CLAIMS AND APPEALS PROCEDURES

*Due to the implementation of recent federal regulations that govern how employee benefit plans process disability benefit claims, the claims and appeals procedures set forth in the National Elevator Industry Pension Plan Summary Plan Description (SPD) will be modified. Accordingly, effective for applications received by the Benefits Office on or after January 1, 2018, pages 42 through 44 of the SPD shall be replaced with the following:*

#### **Applying for Your Pension Benefit**

To receive a benefit from the Pension Plan, you or your beneficiary must file an application. Applications are available from the Benefits Office. You must complete and return your application to the Benefits Office within 180 days prior to your intended Effective Date. It is required that you complete the application and provide any necessary documents—such as copies of birth certificates, marriage certificates and a Social Security disability award (if you are applying for a Disability Retirement Pension). If you do not complete the form or if the documents are missing, it may delay the commencement of your pension payments.

If you are not married, you may be required to complete a written statement, on which the Trustees are entitled to rely, concerning your marital status.

If you willfully make a false statement or furnish fraudulent information or proof, your benefits may be denied, suspended, or discontinued, at the Trustees' sole discretion. The Trustees have the right to recover or adjust future pension payments to recover any benefits paid in reliance on any false statement, information, or proof submitted (including the withholding of material information) plus interest, fees, and costs.

You will be provided with an explanation of the monthly pension amounts available to you. Generally, if you are married your pension will be paid in the 50% Surviving Spouse Pension form of payment, unless you and your spouse waive this form of payment in writing, witnessed by a notary public. You must file the waiver with the Trustees before your pension commences.

You may file a new waiver or revoke a previous waiver at any time during the 180-day period before the Effective Date of your pension. Once payments begin, you may not change the form of payment.

In the event of your death, your spouse or beneficiary should immediately notify the Benefits Office. When your spouse or beneficiary applies for any survivor benefits that he/she may be eligible for, he/she must submit the following documentation:

- A certified copy of your death certificate;
- A certified copy of your spouse's birth certificate;
- A certified marriage license; and
- A certified copy of your birth certificate (if it is not already on file with the Benefits Office).

If you are applying for a Disability Retirement Pension or an Early Retirement Pension based on a Total Disability or Disability at age 55 (see pages 14 and 15 of the SPD), you will need to provide proof of your Total and Permanent Disability (in the case of a Disability Retirement Pension) or your Total Disability or Disability (in the case of an Early Retirement Pension). If any additional information is needed, the Benefits Office will notify you.

## **OVERPAYMENTS**

The Pension Fund shall have a constructive trust, lien and/or an equitable lien by agreement on any overpaid or advanced benefits received by you, your Spouse, alternate payee or Beneficiary ("Payee") or your or your Payee's representative (including an attorney) that is due to the Pension Fund under this Section, and any such amount is deemed to be held in trust by you or your Payee for the benefit of the Pension Fund until paid to the Pension Fund. By accepting benefits from the Pension Fund, you and your Payee consent and agree that a constructive trust, lien, and/or equitable lien by agreement in favor of the Pension Fund exists with regard to any overpayment or advancement of benefits. In accordance with such constructive trust, lien, and/or lien by agreement, you or your Payee agrees to cooperate with the Pension Fund in reimbursing it for all of its costs and expenses related to the collection of those overpayments or advancement of benefits.

The Pension Fund may recover overpaid benefits by offsetting all future benefits otherwise payable by the Pension Fund on your behalf or on behalf of your Payees. For example, if the overpayment or advancement was made to you as a Participant, the Pension Fund may offset the future benefits payable by the Pension Fund to you or your Payees. If the overpayment or advancement was made to your Payee, the Pension Fund may offset the future benefits payable by the Pension Fund to you or your Payees.

If you, or if applicable, your Payee, fails to reimburse the Pension Fund and the Pension Fund is required to pursue legal action against you or your Payee to obtain repayment of the overpayment or the benefits advanced by the Pension Fund, you or your Payee shall pay all costs and expenses, including attorneys' fees and costs, incurred by the Pension Fund in connection with the collection of any amount owed to the Pension Fund or the enforcement of any of the Pension Fund's rights to reimbursement. You or your Payee also shall be required to pay interest at the rate determined by the Trustees from time to time from the date you or your Payee becomes obligated to repay the Pension Fund through the date the Pension Fund is paid the full amount owed.

By accepting benefits from the Pension Fund, you agree to waive any applicable statute of limitations defense available regarding the enforcement of any of the Pension Fund's rights to recoup overpayments.

## **WHEN YOUR BENEFITS BEGIN**

Benefits will not be paid unless you have terminated employment covered by the Plan (or are working beyond age 70½). Generally, pensions are effective on the first day of the month after the Benefits Office has received your completed and signed application.

If the event you are Totally and Permanently Disabled, your Disability Retirement Pension will generally be effective on the first day of the month after you apply for a benefit. However, you may receive a benefit

retroactive to the month in which you became entitled to Social Security disability benefits. You may not collect Weekly Income Benefits from the National Elevator Industry Health Benefit Plan and a pension benefit in the same month.

Because the Benefits Office requires time to process your pension application, your first pension payment may be delayed.

Every effort will be made to complete the processing of your application within 90 days after its receipt by the Benefits Office. If a decision on your application cannot be made within this 90-day period, a letter will be sent to you explaining the special circumstances requiring another 90 days to take action. Final action will be taken by the end of the second 90-day period.

In the case of a claim for a Disability Retirement Pension or an Early Retirement Pension payable on account of a Total Disability or Disability at age 55 (see pages 14 and 15 of the SPD), every effort will be made to complete the processing of your application within 45 days. If a decision on the application cannot be made within this 45-day period, the Plan may take up to two additional 30-day extensions by sending you a notice of extension describing the special circumstances requiring each extension. If a notice of extension requests additional information from you that is needed to resolve an issue, you will be given at least 45 days to provide the requested information. If an extension is necessary due to your failure to submit information needed by the Plan to decide your claim, the period for deciding the claim will be tolled from the date you are sent the notice of extension until the date on which you respond to the request for additional information.

In some situations, you may elect to defer payment of benefits to a later date. The Benefits Office can help determine if you are eligible and, if so, when benefits can be paid. However, you must begin receiving your pension payments by April 1 of the year following the year in which you reach age 70½.

## **IF YOUR APPLICATION IS DENIED**

### **In General**

If your application is denied, in whole or in part, you will receive a written notice from the Benefits Office. In general, this notice will:

- Explain the reasons for the denial,
- Refer to the pertinent provisions of the Plan,
- Describe the claim review process and applicable time limits, including a statement of your right to bring a civil action under Section 502(a) of ERISA following an adverse determination on review, and
- If appropriate, describe additional information needed to make your application acceptable and an explanation of why such information is necessary.

### **Adverse Disability Determinations**

In the case of a claim for an Early Retirement Pension based on Total Disability or Disability at age 55 (see pages 14 and 15 of the SPD), if the Benefits Office determines you are not eligible for an Early Retirement Pension because you: (1) were not Totally Disabled or Disabled at age 55; (2) did not become Disabled after age 40; (3) did not remain Disabled due to the same cause until age 55, or (4) are not otherwise eligible for an Early Retirement Pension because of when the Benefits Office determined you became Totally Disabled or Disabled, this notice will also:

- Set forth a discussion of the decision including an explanation of the basis for disagreeing with or not following:

- The views you presented to the Plan of health care professionals treating you and vocational professionals who evaluated you;
- The views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with your adverse benefit determination; and
- If applicable, a disability determination made by the Social Security Administration regarding you.
- Include either the specific rules, guidelines, protocols, standards or other similar criteria of the Plan relied upon in making the adverse benefit determination or, alternatively, as statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist, and
- Include a statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.

Such notification shall be provided in a culturally and linguistically appropriate manner.

***“Adverse Benefit Determination”***

The term “adverse benefit determination” means any of the following: a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on the Plan’s determination of a participant’s or beneficiary’s eligibility to participate in the Plan.

**APPEAL PROCEDURES**

**In General**

If you receive an adverse benefit determination or if you disagree with a policy, determination or action of the Plan that is not an adverse benefit determination as defined above, you may submit a written appeal to the Trustees requesting that the Board of Trustees review your benefit denial or the policy, determination or action with which you disagree.

Your written appeal must be received by the Benefits Office within 180 days after you receive notice of Benefits Office’s adverse benefit determination. Failure to file a timely appeal will result in a complete waiver of your right to appeal, and the denial of your application for distribution or other claim for benefits will be final and binding.

Upon receipt of an adverse benefit determination, you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, relevant information regarding the claim determination.

Your written appeal should state the reasons for your appeal. This does not mean that you are required to cite all of the Plan provisions that apply or to make “legal” arguments; however, you should state clearly why you believe you are entitled to the benefit you claim. The Trustees can best consider your position if they clearly understand your claims, reasons and/or objections.

You may designate a representative to act on your behalf in filing an appeal of a denial relating to your application or other adverse benefit determination. If the Benefits Office or Trustees are uncertain whether or not you have designated a representative, they may request that you put such designation in writing and may decline to communicate with a third party claiming to be your representative until such written designation is received.

The Trustees or a designated committee of the Trustees will review your appeal at their quarterly meeting immediately following receipt of your appeal unless your appeal was received by the Benefits Office within 30 days of the date of the meeting. If your appeal is received by the Benefits Office within 30 days of the date of

the meeting, the Trustees may not be able to review your appeal until the second quarterly meeting following the Benefits Office's receipt of the appeal. You may wish to contact the Benefits Office concerning the date of the next meeting so that you may submit your appeal in time to be heard at that meeting. If special circumstances require a further extension of time for review for the Trustees, a benefit determination will be rendered not later than the third Trustees' meeting following receipt of your appeal.

### **Special Procedures for Disability Determinations**

In the case of a claim for an Early Retirement Pension based on Total Disability or Disability at age 55 (see pages 14 and 15 of the SPD), if the Benefits Office determines you are not eligible for an Early Retirement Pension because you: (1) were not Totally Disabled or Disabled at age 55; (2) did not become Disabled after age 40; (3) did not remain Disabled due to the same cause until age 55, or (4) are not otherwise eligible for an Early Retirement Pension because of when the Benefits Office determined you became Totally Disabled or Disabled, the Trustees will not defer to the initial adverse benefit determination of the Benefits Office and will review the entire record of the Benefits Office in addition to all other information submitted on appeal.

The Plan will, before issuing an adverse benefit determination on appeal, provide you, free of charge, with any new or additional evidence considered, relied upon, or generated by the Plan or other person making the benefit determination (or at the direction of the Plan or such other person) in connection with your claim. You will be provided with such evidence as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is required to be provided to you (see "Notice of Trustees' Determination" below) to give you a reasonable opportunity to respond prior to that date.

When the Trustees must make a disability determination that involves a medical judgment, they will consult with a health care professional who has appropriate training and expertise in the field of medicine upon which the Benefits Office's determination was based. This medical professional will not be the person who was consulted in connection with the adverse determination that is the subject of the appeal nor his or her subordinate. In their decision, the Trustees will identify all medical experts whose advice was obtained by the Plan in connection with your claim without regard to whether the advice was relied upon in making the benefit determination or decision on appeal.

### **NOTICE OF TRUSTEES' DETERMINATION**

You will receive written notice of the decision of the Trustees within five days after their review of your appeal.

### **CONTENT OF NOTIFICATION**

#### **In General**

If your appeal is denied, in whole or in part, the notice will explain the reasons for the decision, will include specific reference to the Plan provisions on which the decision is based, explain that you are entitled to receive upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim, and describe your right to bring a civil action under Section 502(a) of ERISA.

#### **Special Notice Requirements for Adverse Disability Determinations**

Where the Trustees' deny your appeal, in whole or in part, based on an adverse disability determination, the notice will also set forth a discussion of the decision, including an explanation of the basis for disagreeing with or not following:

- The views you presented to the Trustees of health care professionals treating you and vocational professionals who evaluated you;

- The views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with your adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and
- If applicable, a disability determination regarding the claimant that you presented to the Plan made by the Social Security Administration;

The notice will also include:

- Either the specific rules, guidelines, protocols, standards or other similar criteria of the Plan relied upon in making the adverse benefit determination or, alternatively, as statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist, and
- A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.

Such notice will be provided in a culturally and linguistically appropriate manner.

### **TRUSTEES' DECISION ON APPEAL IS FINAL AND BINDING**

The decision of the Trustees is final and binding upon all parties including the claimant and any person claiming a benefit on behalf of the claimant. The Trustees have full discretion or authority to determine all matters relating to the benefits provided under this Plan including, but not limited to, all questions of coverage, eligibility, and methods of providing or arranging for benefits.