

Amendment 2018-1

The Teamsters Joint Council No. 83 of Virginia Pension Fund, as established September 1, 1957, and restated January 1, 2015, is hereby amended effective April 1, 2018, as follows:

Article 9: CLAIMS PROCEDURE

Section 9.9 Denial of Claims

Whenever a claim for benefits is denied by the Trustees, written notice of such denial, prepared in a manner that is understandable by the average Participant, will be sent to the claimant at his last known address setting forth the specific reasons for the denial and explaining the procedure for an appeal and review of the decision by the Trustees. The decision on such claim shall be made within ninety (90) days from the date of receipt of the application for benefits. In certain circumstances, an additional period of ninety (90) days may be required to process initially an application for benefits. In such case, the applicant will be notified in writing of the need for an extension prior to the expiration of the initial ninety (90) day period.

- (a) **Disability Claims.** With respect to disability claims filed on or after January 1, 2018, including any claim related to a rescission of disability benefits, the written notice of denial shall set forth:
 - (1) A discussion of the decision, including an explanation of the basis for disagreeing with or not following: the views presented by the claimant to the Plan of health care professionals treating the claimant and vocational professionals who evaluated the claimant; the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; and/or a disability determination regarding the claimant presented by the claimant to the Plan made by the Social Security Administration;
 - (2) Either the specific internal rules, guidelines, protocols, standards or other similar criteria of the Plan relied upon in making the adverse determination or, alternatively, a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist;
 - (3) A statement 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; and
 - (4) A statement prominently displayed in any applicable non-English language, as defined in guidance published by the Secretary of Labor pursuant to 29 C.F.R. § 2560.503-1(o), clearly indicating how to access the language services provided by the Plan.

Section 9.10 Claim Appeals Procedure

- (a) A Participant or Beneficiary who applies for benefits under the Plan is ruled ineligible or not qualified for such benefits in whole or in part, or who believes he

did not receive the full amount of benefits to which he is entitled, or who is otherwise adversely affected by any action of the Trustees acting through the Executive Director, shall have the right to request the Board of Trustees to review the matter, provided that he makes such a request in writing within ninety (90) days after being notified, in writing of such adverse action. Furthermore, upon written request to the Fund Office during such ninety (90) day period, the Participant or Beneficiary shall be extended an opportunity to review pertinent documents at the Fund Office.

(b) The written request for review of an adverse action of the Trustees acting through the Executive Director must be addressed to the Board of Trustees in care of the Fund Office and must state –

- (1) the name and address of the Participant or Beneficiary who is appealing the adverse decision;
- (2) the fact that the Participant or Beneficiary is appealing from a decision of the Fund Office (giving the date of the decision appealed from);
- (3) the basis of the appeal, i.e., the reason or reasons why the claim should not be denied; and
- (4) the provisions of the Plan on which the appeal is based.

(c) A Participant or Beneficiary may appoint a representative (who may be an attorney) to pursue the appeal. A claimant's spouse or a parent of a minor claimant may serve as the claimant's representative without prior notice to the Fund Office. A claimant must submit a written designation of any other representative to the Fund Office as part of the appeal. An appeal submitted without written proof of authorization will be considered filed, subject to submission of proof of authorization. The Fund Office will notify the representative that proof of authorization must be submitted within ten (10) working days or by the expiration of the applicable time requirement set forth in this section, whichever is the later.

(d) The Executive Director shall notify a claimant of the Plan's benefit determination in accordance with the following schedule:

- (1) Disability Claims. The Executive Director shall notify the claimant of the Plan's adverse benefit determination within a reasonable period of time, but not later than forty-five (45) days after receipt of the claim by the Plan. This period may be extended by the Plan for up to thirty (30) days, provided that the Executive Director determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the claimant, prior to the expiration of the initial forty-five (45) day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first thirty (30) day extension period, the Executive Director determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional thirty (30) days, provided that the Executive Director

notifies the claimant, prior to the expiration of the first thirty (30) day extension period, of the circumstances requiring the extension and the date as of which the Plan expects to render a decision. In the case of any extension under this Paragraph, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least forty-five (45) days within which to provide the specified information.

(2) Other Claims. The decision of the Trustees will be made not later than sixty (60) days after receipt of the request for review, or such additional time (up to one hundred and twenty (120) days) when additional time is requested. The decision on review will be in writing and will include the specific reasons for the decision. The Trustees are empowered to determine all questions pertaining to the interpretation, administration, construction, and application of the Plan, including, but not limited to, the determination of all questions of eligibility and the status and rights of all individuals claiming an interest in benefits provided by the Plan. The Trustees' decisions shall, to the extent not inconsistent with the provisions of the Plan, be final and conclusive and binding upon all persons having and claiming to have an interest in the Plan. Unless special circumstances require an extension of time, the Board of Trustees shall issue a written decision affirming, modifying, or setting aside the decision appealed from by the date of their next regularly scheduled meeting following the Fund Office's receipt of the written appeal or, in cases where the written appeal is received within (30) days of the date of such meeting, by the date of their second regularly scheduled quarterly meeting following receipt of the written appeal. In no case will the period for rendering a decision be extended beyond one hundred and eighty (180) days after the filing of the appeal unless the Board of Trustees request that the Fund Office obtain additional information from the Participant or Beneficiary. The decision by the Board of Trustees on review shall be in writing and will include specific reasons for the decision, as well as specific references to the pertinent Plan provisions on which the decision is based. Such a decision by the Board of Trustees shall be final and binding. For purposes of this section, the term "Board of Trustees" means the Board of Trustees of the Fund or a duly authorized committee acting on behalf of the Board of Trustees.

(e) No person shall file a claim in any court or before any agency for the payment of benefits under this Plan unless he has already filed an application for such benefits with the Trustees as required by this Plan and exhausted the review procedures set forth in this section. No legal or administrative action may be

commenced or maintained against the Plan for the payment of benefits under this Plan more than one hundred and eighty (180) days after the Board of Trustee's decision on the appeal.


(f) Disability Claims. With respect to appeals related to disability claims filed on or after January 1, 2018:

- (1) Before the Plan can issue an adverse benefit determination on review on a disability benefit claim, the Plan will provide the participant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Trustees, Plan, or other person making the benefit determination (or at the direction of the Trustees, Plan or such other person) in connection with the claim; such evidence will be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is to be provided under Section 9.10.d.1. to give the claimant a reasonable opportunity to respond prior to that date;
- (2) Before the Plan can issue an adverse benefit determination on review on a disability benefit claim based on a new or additional rationale, the Plan will provide the Participant, free of charge, with the rationale; the rationale will be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is to be provided under Section 9.10.d.1. to give the claimant a reasonable opportunity to respond prior to that date;
- (3) The notification of benefit determination on appeal shall include a statement of the claimant's right to bring an action under section 502(a) of ERISA, a statement that the claimant's right to bring such a claim is subject to the limitations period set forth in Section 9.10.e., and the calendar date on which the limitations period expires for the claim.

Section 9.11 Commencement of Benefits

This amendment is adopted and executed on _____ of _____, 2018.

Employer Trustees



Union Trustees

