Notice of Critical and Declining Status For District Council 37, Local 389 Home Care Employees Pension Fund

This is to inform you that on **March 31, 2023** the plan actuary certified to the U.S. Department of the Treasury, and also to the plan sponsor, that the Plan is in critical and declining status for the Plan Year beginning **January 1, 2023**. Federal law requires that you receive this notice.

Critical and Declining Status

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan has an accumulated funding deficiency as of December 31, 2022. Also, as required by the Multiemployer Pension Reform Act of 2014, the Plan was certified as being in critical and declining status because the Plan is in critical status and the actuary determined that the Plan is projected to become insolvent during the 2032 plan year.

Under the American Rescue Plan Act of 2021 (ARPA), the Plan is allowed to apply for Special Financial Assistance from the Pension Benefit Guaranty Corporation (PBGC). The Plan expects to file an application under this program. Upon approval of the application and receipt of the Special Financial Assistance, the Plan will be in a significantly better financial position.

Rehabilitation Plan

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the trustees of the Plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after April 30, 2023. Whether or not the Plan reduces adjustable benefits in the future, effective as of April 30, 2023, the Plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical and declining status.

Adjustable Benefits

The plan offers the following adjustable benefits which may be reduced or eliminated as part of any changes to the rehabilitation plan that may be adopted:

Disability benefits (if not yet in pay status);
Early retirement benefit or retirement-type subsidy; and/or
Benefit payment options other than a qualified joint and survivor annuity (QJSA).

Employer Surcharge

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the plan is in critical status. The surcharge ends for an employer once its collective bargaining agreement incorporates one of the schedules of the rehabilitation plan.

Where to Get More Information

For more information about this Notice, you may contact Ms. Audrey Browne by writing to DC 37 Local 389 – Home Care Employees at 420 West 45th Street, Fifth Floor, New York, NY 10036 or by telephone at (212) 925-6033. You have a right to receive a copy of the rehabilitation plan from the Plan.

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