



Assisting Cognitively Impaired Pensioners

Caring for persons with cognitive impairments may require dealing with the impaired person's financial issues. Potential pension benefits and problems with pension claims often present a challenge.

Before attempting to help with a pension issue, be warned that you may not get very far in this process without legal authority. Employers, government agencies, and pension plan administrators are required to protect private information and generally will only deal with the individual pension plan participant or his/her legal representative. In many cases, a financial Durable Power of Attorney signed by the impaired person while mentally competent will be acceptable. However, some organizations will only release information to a court-appointed guardian or conservator.

❖ Tracking down a potential pension benefit

Begin by researching the work history that may have earned a pension benefit. Usually some bit of information starts the search for a pension. Can the impaired person tell you where he worked? If not, are there family members that may have this information? Did the former employee receive a Notice of Potential Private Pension Benefit from the Social Security Administration (SSA)?

If you cannot informally discover the impaired person's work history, consider submitting a Request for Social Security Earnings Information. For a fee, the Social Security Administration will research and report an individual's earnings history. You can find a request form, SSA-7050-F4, on the SSA website. If the former employee cannot make this request himself, you will need a form of legal authority to make the request for him.

Once you have an employer name as a starting point for your research, the Internet is a great source of information. You will be searching for the current

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pension plan administrator. Does the employer still exist? If not, did it merge with another or just cease to exist? Did the employer declare bankruptcy? A quick query to Google or a similar search engine may give you the information you need.

Most states have an agency or department that maintains online corporate records. You may be able to track the former employer to a successor company or find a resident agent who may have some information.

Did the Pension Benefit Guaranty Corporation (PBGC) take over the administration of the pension? The PBGC guarantees certain defined benefit (traditional) pensions earned through private employment. The PBGC does not guarantee or administer any defined contribution pension plans like 401(k)s. Check the PBGC website, www.pbgc.gov, for more information. This website includes searchable databases of pension plans administered by the PBGC and potential pensioners who may be due a benefit.

Ask around your community. Can you find other former employees who are receiving a pension? This information can lead you straight to the pension plan administrator.

Another great internet resource is www.freeerisa.com. This website offers free searches of the 5500 forms filed by pension plan sponsors. Federal pension law [the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code] requires plan sponsors to report certain information to the federal Department of Labor each year. The 5500 form will provide a name and address for the pension plan administrator. Generally, however, the most current forms available on www.freeerisa.org are at least 2 years old.

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Be aware that it may be difficult to locate information about a specific pension plan if the impaired person's employment for the plan sponsor ended before 1975. Extensive recordkeeping of private pension information was not mandated until enactment of ERISA.

❖ **Contacting the pension plan administrator**

After you have located the administrator of the pension plan, write a letter to the plan. Here again, if the impaired person cannot write this letter himself, you will need some form of legal authority to request the impaired person's personal information and/or to act on his behalf. The letter should explain your legal authority and include a photocopy of the Durable Power of Attorney or court documents recording your appointment as the impaired person's guardian or conservator.

The initial letter to the pension plan administrator should clearly set out the employee's full name, his Social Security number, and his last date of employment. Ask the plan administrator to provide a copy of the Summary Plan Description (SPD) in effect on the impaired person's last date of employment. An SPD contains important information such as participation, vesting, and eligibility rules. It is a condensed version of the actual pension plan. It should be written in language easily understood by the average person. Also request an explanation of the former employee's potential pension benefits and an application form.

If you are contacting the PBGC, follow its online instructions, and use its forms when making a pension inquiry.

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❖ Dealing with problems

Read over the pension plan administrator's response to your request for information. Compare it with the facts you have gathered about the impaired person's work history and the rules spelled out in the SPD.

If you disagree with or are unsure about the plan's determination, consider calling the Mid-America Pension Rights Project's toll free telephone number **(866) 735-7737** for advice, information, and possible intervention. Be very careful that you do not take any action that could be viewed as an appeal by the pension plan administrator. Consult a pension attorney first. Most plans only permit 1 appeal to a plan's determination. If your action/appeal is incomplete, the plan need not consider any further evidence you have to offer. The pension plan's denial of an appeal could also limit the impaired person's options. His only recourse may be to sue the pension plan, an often lengthy and expensive process. An appeal denial also starts the clock running on a Statute of Limitations. Once this legal time limit on filing a lawsuit has expired, the employee may lose all rights of reconsideration.

If you encounter difficulties at any point in the steps outlined above, please feel free to contact the Mid-America Pension Rights Project **(866) 735-7737**. The Project provides free legal assistance with pension issues without any age or income restrictions.

**THIS FACT SHEET IS INTENDED TO PROVIDE ONLY GENERAL INFORMATION AND
SHOULD NOT BE RELIED ON AS A LEGAL OPINION.
SEEK INDIVIDUAL LEGAL ADVICE
BEFORE MAKING ANY DECISION ABOUT YOUR RIGHTS.
CALL THE
MID-AMERICA PENSION RIGHTS PROJECT
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TO GET ADVICE AND INFORMATION
ABOUT PRIVATE AND PUBLIC PENSIONS.**

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