

To: Kaiser Permanente Northwest Pension Plan Participants
From: OFNHP Leadership
Re: Your Rights and Responsibilities as Plan Participants
Date: December 19, 2013

Recently, we have received calls from retirees expressing concerns about the calculation and timing of retirement benefit payments under the Kaiser Permanente Northwest Pension Plan. We wanted to tell you what OFNHP is doing to address these concerns and provide each of you a summary of your individual rights so that you can also take steps personally to protect your benefits.

Discussions with Kaiser on Pension Administration Issues

OFNHP has made Kaiser aware of the concerns we are hearing about the administration of the pension plan. Kaiser has acknowledged that the current performance levels of its new plan administrator, Mercer, are unacceptable, and it appears to OFNHP that Kaiser is taking significant measures to address them. Mercer has nearly doubled the staff dedicated to the Kaiser plans and will add another 20% by the end of the year. It has created a dedicated team to address more complicated cases. Kaiser has agreed to provide OFNHP Mercer performance statistics so that OFNHP can monitor improvement and continue discussions with Kaiser as needed.

A number of you provided us information about your individual experiences with Mercer, and it has been quite helpful in identifying and demonstrating problems to Kaiser. Thank you. While we are hopeful that the measures being taken will significantly improve Mercer's performance on a system-wide basis, we urge all current and retiring employees to be proactive in making sure that their individual situations are resolved and their benefits correctly calculated. We hope the information below will be helpful.

Information Required to be Provided By the Retirement Plan

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for pension plans in the private sector. Under ERISA, each retirement plan is required to have a formal, written plan document that details how it operates and its requirements. It is also required to have a Summary Plan Description (SPD), a booklet that describes the key plan rules which is much easier to read and understand. The SPD should include a summary of any material changes to the plan and the procedure for processing your benefits claim and any appeals. The Plan Administrator is required to provide you a copy of these documents.

If you do not have a copy of the plan document or the SPD, you can request a copy of those documents from the **Kaiser Permanente Retirement Center (KPRC)** at **1-866-627-2826**, or online at **myretirement.kp.org**—click My Pension Plan.

Filing a Claim for Retirement Benefits

If you meet the eligibility requirements for retirement benefits (see SPD p. 76), contact KPRC. The KPRC will process your request for a retirement benefit and provide you an estimate of the amount of retirement benefits to which you are entitled. You can also perform an online estimate at myretirement.kp.org at any time, although the results of the online calculator have been questionable. The KPRC will also mail you the appropriate distribution application forms upon request.

Review the estimated benefit information carefully. It is your responsibility to confirm that the estimate includes accurate information about your **credited service** and **final average monthly compensation** (see SPD, pp. 74-76). We recommend that you pay particular attention to the estimate's calculation of your "**past service credit**" because some of you may be entitled to earn double credited service based on actual hours worked in 2006, 2007 and 2008 (see SPD, p. 75).

If you wish to contest the estimated benefit calculation, contact the KPRC immediately. If the problem is not resolved after discussing it with a KPRC representative, you should request that the KPRC send you a *Claim Initiation Form* for the KPNPP. The current SPD contains a 6 month deadline for initiating a claim regarding retiree health insurance disputes but does not expressly make this deadline applicable to disputes regarding only retirement benefits. Therefore, we recommend that you file the *Claim Initiation Form* not later than 60 days from the date you receive the estimate (i.e., the shortest appeal deadline allowed by ERISA) which is also well-within the 6 month deadline for other retiree disputes. If the claim is denied, you will need to follow the appeal procedure provided in the SPD (see discussion below).

Claims Appeal Procedure

The claims appeal procedure can and will be amended from time to time. Therefore, when you are filing and appeal, make sure that you have the most current version of the SPD, including summary of modifications.

Review of the Claim:

The Plan Administrator will determine the amount of retirement benefits to which you are entitled within 90 days of receipt of your signed *Claims Initiation Form*, although additional information may be required before a determination can be made. You will be informed what additional information and any additional time that may be needed to process your claim. The maximum allowable waiting period for a decision if an extension is sought is 180 days.

Partial or Complete Denial:

If your claim for benefits is partially or completely denied, you will be notified in writing. This notice will explain in detail why the claim was denied. The notice will state:

- The specific reason or reasons for the denial
- Specific reference to pertinent plan provisions on which denial is based

- If applicable, a description of any additional material or information necessary for you to make the claim acceptable, and an explanation of why such material or information is necessary
- A description of the benefit claim review procedures and the time limits applicable to such procedures, including a statement of your rights to sue under Section 502(a) of ERISA after exhaustion of the review procedures.

What to do about a Denial:

If you receive a partial or complete denial, we recommend that you privately retain an attorney experienced with ERISA to advise you about your rights and also inform the OFNHP. Under the current SPD, you and your ERISA attorney will have 90 days following the date on the written notification of a denied claim to file a request for review with the Administrative Committee. We recommend that you double-check the current SPD for any changes to the 90 day appeal deadline and current address information for submission of the appeal.

At this level, you will be given the opportunity to submit written comments, documents, records, and other information relating to the claim. The Administrative Committee will provide you, free of charge, reasonable access to and copies of all documents, records and other information relevant to the claim. The Appeals Sub-Committee will review your appeal at the next regularly scheduled meeting following receipt of an appeal. If the appeal is not received at least 30 days prior to the next scheduled meeting, it may be heard at the following regularly scheduled meeting or at the latest at the third regularly scheduled meeting. The review of the claim will take into account all comments, records, and other information you submit relating the claim without regard to whether such information was submitted or considered in the initial benefit claim.

Decision on Review:

The Administrative Committee will make a decision on the review of the claim and provide written notice of the decision to you within a reasonable period of time, but not later than 60 days after the request for review. If special circumstances require an extension of time for processing, you will be notified in writing of the reasons for the delay and the amount of additional time needed. The maximum allowable extension is an additional 60 days (i.e., total of 120 days to issue a decision).

Upon completion of the appeals procedure, the Administrative Committee will advise you in writing of its decision. If the appeal is denied, the notice will state:

- The specific reason or reasons for the denial
- Specific reference to pertinent plan provisions on which denial is based
- 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 related to your claim
- A statement of your right to sue under Section 502(a) of ERISA after exhaustion of the review procedures.

In addition, the response will note that no legal action for benefits may be commenced or maintained against the plan, plan administrator, or the committee more than one (1) year after the

appeal has been denied. In other words, the plan has built-in a contractual deadline for filing a lawsuit which is shorter than usual six year state deadline for contract disputes the courts have traditionally borrowed and applied to claims under ERISA filed here in Oregon. The legality of such a shorter contractual deadline is something which has been challenged in a case which will be heard by the U.S. Supreme Court this year. Because this legal issue is complicated, again, we recommend that you seek personal legal advice from an ERISA attorney about your right to sue under ERISA. This is your individual responsibility and not something for which the union provides legal assistance.

Payment of Benefits

For administrative reasons, benefits do not begin immediately after meeting the conditions for eligibility. At a minimum, ERISA requires that the plan must start paying you benefits within 60 days after the end of the plan year in which you satisfy the conditions. According to the SPD (see p. 102), the plan year for the Kaiser Permanente Northwest Pension Plan ends on December 31st of each year. This means that, for example, if you are eligible and apply for retirement benefits in January of any given year, under ERISA, the plan can take until 60 days after December 31st of that year (i.e., over 14 months) to start paying you your benefits. Kaiser has told OFNHP it expects benefits to begin much sooner than that and is taking steps to ensure the current, unacceptably long delays are reduced.

ERISA Compliance Assistance

If you believe the plan failed to follow ERISA's requirements, in addition to seeking legal advice, you also can contact the **Department of Labor** concerning your rights under ERISA electronically at www.askebsa.dol.gov or by calling toll free **1.866.444.3272**. The Department of Labor has the ability to pursue civil and/or criminal penalties and to pursue administrative and civil actions for ERISA compliance.