

SUSPENSION OF BENEFITS NOTICE

DOES THIS APPLY TO ME?

This Notice describes the suspension of benefit rules under the UFCW Local 1262 and Employers Pension Plan (the "Plan"). If you ***are retiring*** and/or ***are not working*** in the retail food industry in New Jersey, New York or Pennsylvania, keep this Notice for future reference.

If you ***are retired and working*** in the retail food industry in New Jersey, New York or Pennsylvania, **this is to notify you that your pension benefit is suspended.**

Who Is Affected. If you retired and are working in Suspension Service (defined below) or you have reached your Normal Retirement Age (typically age 65 or older) and you are continuing to work in Suspension Service your pension benefits will be suspended.

"**Suspension Service**" means service for which you are paid for 40 or more hours per month, or for any part of 8 or more days or shifts per month, for work in the retail food industry in New Jersey, New York or Pennsylvania regardless of your occupation. If you are employed after your Normal Retirement Date, "Suspension Service" only includes employment in the same occupation you worked in while you were covered under the Plan prior to your Normal Retirement Date.

If you are paid for fewer than 40 hours per month, or for fewer than all or part of 8 days or shifts per month, your pension is payable to you for that month. You may begin receiving your pension payments by April 1 of the calendar year following the calendar year in which you reach age 70-1/2, regardless of how many hours or days you work.

If an employer makes contributions to the Plan for you, you will be deemed working in Suspension Service. Suspension Service also includes employment with an employer not making contributions to the Plan. For example, if your employer is contributing to a different pension plan, your employment with that employer can be Suspension Service.

If you are working and receiving pay for fewer than 40 hours or for fewer than all or part of 8 days or shifts per month, and you believe that your pension payments should not be suspended, you must notify the Pension Department at the Fund Office so your pension payments can start or resume.

You Are Required to Give Notice To The Pension Department.

If you work in the retail food industry in New Jersey, New York or Pennsylvania after your pension payments start and before April 1 of the calendar year following the calendar year you attain age 70-1/2, you must notify the Pension Department in writing of such employment. If you fail to do so, you will be liable for any overpayments when you finally retire.

If you are working reduced hours, and you think your pension payments should not be suspended, write to the Pension Department and include the number of hours, days, or shifts you work per month, so the Pension Department can verify whether your pension can continue or recommence. If

you do not, you could miss pension payments, or receive pension payments in error, which would require later adjustments of your monthly pension, as described below.

If you are retiring, and/or are not working in Suspension Service, notify the Pension Department so your benefits commence.

Ask How Your Pension Would Be Affected. If you are thinking of returning to work in the retail food industry in New Jersey, New York or Pennsylvania after your pension payments have started, or if you are continuing in such a position after your Normal Retirement Date, ask the Pension Department in writing, two months in advance, for a determination of whether your proposed reemployment or continued employment would cause your pension to be suspended.

Why Pensions Are Suspended. The Plan is designed to provide pension benefits when you retire, not supplemental unemployment benefits. Because of the liquidation of Pathmark, many individuals are now working for an employer that does not contribute to the Plan causing a loss of anticipated contribution income to the Plan. In addition, the liquidation of Pathmark has caused many participants to retire earlier than expected, putting additional financial strains on the Plan.

If you work for a contributing employer in covered employment and your period of Suspension Service is long enough, you may earn additional credited service under the Plan. When you retire, you will receive a pension that takes into account your periods of service eligible for credit under the Plan (except for certain de minimis service). However, your pension will not be adjusted to reflect that you did not receive pension payments that would otherwise have been payable after your Normal Retirement Date.

When Suspension Service Ends. Suspension Service ends as of the earliest of these dates:

- A. the first day of the month following your retirement or termination of employment;
- B. the first day of the month following the month in which you are paid for fewer than 40 hours of service (or for fewer than any part of 8 days or shifts) per month, and you notify the Pension Department in advance by applying for your pension;
- C. April 1 of the calendar year following the calendar year in which you reach age 70-1/2, but only if you elect to have pension payments start while you remain employed and you have completed your pension application. Otherwise, payments will begin after (A) or (B).

How to Start or Resume Payments. If your pension payments have been suspended, request an application form from the Pension Department. The sooner you return the completed application to the Pension Department, the sooner your pension payments will start or resume. It takes approximately three months for an application to be processed. Payments cannot begin until the Pension Department has all the information it needs, such as verification of your work history.

When Payments Are Required to Begin. If your application is complete and timely, your pension payments will begin or resume on the first day of the third calendar month after the month in which your Suspension Service ends. Your initial payment will include any payments due after the end of your Suspension Service. However, your pension benefits will not be actuarially adjusted for the delay in the resumption of your pension, and no payments will be made for any month during which

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you worked in Suspension Service. Your pension may also be subject to adjustments for over- and underpayments, as described below. *Remember that your pension payments must begin by April 1 of the calendar year following the calendar year in which you either reach age 70-1/2, or when you stop working if later. If you do not start receiving pension payments by this date, you may be subject to IRS penalties.* See the section of your Summary Plan Description ("SPD") on "Applying for Benefits" for more information.

Underpayment and Overpayment Adjustments. If the Plan suspends a pension that should have been paid, you will not receive missed payments but your future payments will be actuarially increased. If the Plan pays a pension that should have been suspended, your later pension payment(s) will be reduced to reflect the overpayment. If your first payment is not sufficient to recoup the entire amount of any overpayment, the Plan will reduce later payments up to 25% of your monthly payment.

The Pension Department will ask your employer for evidence of your hours or days worked to make proper adjustments. You will receive, or you can request, an explanation of the adjustments made to your pension payments when they start or resume.

Appeal of a Benefit Suspension. You are entitled to a review of any suspension of benefits under the Plan's claims procedure. If you feel you are not employed or re-employed in Suspension Service, you may appeal the suspension according to the claims procedure, and provide records of your hours and days worked from your employer. Your SPD has an outline of the Plan's claims procedure. You can request another copy of the SPD, or a copy of the Plan's claims procedure, by contacting the Pension Department.

Limitations on Time Period to Bring Claim and File Suit in Federal Court.

Effective January 1, 2015, a claim or action (i) to recover benefits allegedly due under the Plan or by reason of any law, (ii) to enforce rights under the Plan, (iii) to clarify rights to future benefits under the Plan, or (iv) that relates to the Plan and seeks a remedy, ruling or judgment of any kind against the Plan or a Plan fiduciary or party in interest (collectively, a "Judicial Claim"), may not be commenced in any court or forum until after the claimant has exhausted the Plan's claims and appeals procedures (an "Administrative Claim").

A claimant must raise every argument and/or produce all evidence the claimant believes supports the claim or action in the Administrative Claim and will be deemed to have waived any argument and/or the right to produce any evidence not submitted to the Trustees (or by an administrator acting for the Trustees), as part of the Administrative Claim. Any Judicial Claim must be commenced in the appropriate court or forum no later than 12 months from the earliest of (A) the date the first benefit payment was made or allegedly due; (B) the date the Trustees (or by an administrator acting for the Trustees) or its delegate first denied the claimant's request; or (C) the first date the claimant knew or should have known the principal facts on which such claim or action is based; provided, however, that, if the claimant commences an Administrative Claim before the expiration of such 12-month period, the period for commencing a Judicial Claim will expire on the later of the end of the 12-month period and the date that is 3 months after the final denial of the claimant's Administrative Claim, such that the claimant has exhausted the Plan's claims and appeals procedures. Any claim or action that is commenced, filed or raised, whether a Judicial Claim or an Administrative Claim, after expiration of such 12-month limitations period (or, if applicable, expiration of the 3-month limitations period following exhaustion of the Plan's claims and appeals procedures) will be time-barred. Filing or commencing a Judicial Claim before the claimant exhausts the Administrative Claim requirements will not toll the 12-month limitations period (or, if applicable, the 3 month limitations period).

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Further Information. The Plan's provisions relating to the suspension of benefits appear below. You can find applicable Department of Labor regulations in Title 29, § 2530.203-3, of the Code of Federal Regulations. If you have any questions, please call the Pension Department.

Plan Provision Relating to Suspension of Benefits

1.22 "Normal Retirement Date" means:

(a) for benefits accrued as of December 31, 1997, the earlier of:

(i) the later of (A) the sixty-second (62nd) anniversary of a Member's date of birth, or (B) the date on which the Member completes five (5) years of Vesting Service; or

(ii) the later of (A) the sixty-fifth (65th) anniversary of a Member's date of birth, or (B) the fifth (5th) anniversary of a Member's commencement of participation in the Plan.

(b) effective January 1, 1998, the later of (i) the sixty-fifth (65th) anniversary of a Member's date of birth, or (ii) the fifth (5th) anniversary of a Member's commencement of participation in the Plan.

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Section 6.8 Suspension of Retirement Pension Payments.

(a) (i) Before Normal Retirement Date. A Member's monthly benefit shall be suspended for any month in which the Member is employed in Disqualifying Employment after he has attained his Earlier Retirement Date and before he has attained his Normal Retirement Date.

"Disqualifying Employment" for the period before his Normal Retirement Date is employment in the same trade or craft in the Geographic Area of the Plan for at least 40 Hours of Service in a calendar month or the period where such Member receives payment for Hours of Service on each of eight or more days (or separate work shifts) in such month or payroll period, provided, that the Plan has not for any purpose determined or used the actual number of hours of service that would be required to be credited to the Member under Section 2530.200b-(2)(a) of the DOL Regulations. The provisions of this subsection (i) shall not, however, result in the suspension of benefits for any month after the Member has attained his Normal Retirement Date.

(ii) After Normal Retirement Date. If the Member has attained his Normal Retirement Date, his monthly benefit shall be suspended, unless such Member is required to receive or continue receiving his monthly benefit in accordance with Section 6.4 ("Required Distributions"), for any month in which he provided at least 40 Hours of Service in a calendar month or received payment for such Hours of Service on each of eight or more days (or separate work shifts) in such month or payroll period if in Totally Disqualifying Employment, provided, that the Plan has not for any purpose determined or used the actual number of hours of service that would be required to be credited to the Member under Section 2530.200b-(2)(a) of the DOL Regulations. For purposes of this Section 6.8(b) "Totally Disqualifying Employment" means employment or self-employment that is (A) in the same trade or craft, (B) in the Geographic Area covered by the Plan when the Member's pension commenced (or would have commenced if employment had not continued), and (C) in any occupation in which the Member worked under the Plan.

For purposes of this Section 6.8, the "same trade or craft" includes employment in the retail food industry or by the Union or the Fund, and "Geographic Area" of the Plan means the entire states of New Jersey and New York, and the entire Commonwealth of Pennsylvania.

(iii) Paid non-work time shall be counted toward the measure of 40 Hours of Service or eight days if paid for vacation, holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a workers' compensation or temporary disability benefits law shall not be so counted. A Member shall be considered as paid for a day if he

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is paid for at least one hour of work or non-work time as described herein performed on or attributed to that day.

(iv) "Suspension of Benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments, pursuant to subsection (e) below.

(b) A Member's retirement payment that has been suspended pursuant to this Section 6.8 shall be resumed not later than the third calendar month after the calendar month in which the Member ceases to perform service described in Section 6.8(a). The initial payment upon resumption of retirement payments shall include any amounts withheld during the period between the cessation of the period during which benefits were suspended pursuant to Section 6.8(a) and the resumption of payments, but shall not be actuarially adjusted for such delay in resumption of retirement benefits, nor shall any payment be made with respect to any month during which retirement benefits were suspended pursuant to Section 6.8(a).

(c) A Member may request in writing that the Trustees determine whether such Member's contemplated employment after the Member's Normal Retirement Date shall constitute service described in Section 6.8(a). Such written request must be filed not later than 60 days before the Member's Normal Retirement Date. In determining whether contemplated employment after such Member's Normal Retirement Date constitutes service described in Section 6.8(a), the Claims Procedure of Section 8.3 shall be applicable thereto.

(d) Provided that a Member has notified the Trustees of his reemployment, no retirement payment shall be suspended under this Section 6.8 unless the Member is notified by personal delivery or first class mail during the first calendar month or payroll period in which retirement payments are being suspended. Such notice will contain such information as may from time to time be required by Section 2530.203-3(b)(4) of the DOL Regulations.

(e) If a Member erroneously receives retirement payments for a month during which such retirement payments should have been suspended pursuant to Section 6.8, then the Trustees may deduct from future retirement payments such erroneously received retirement payments. However, no such deduction may exceed in any one month 25 percent of that month's retirement payments to which the Member or the Member's Beneficiary, as the case may be, would have been entitled (excluding the initial payment of retirement payments described in Section 6.8(b), which is subject to deduction without limitation).

(f) The Standard Retirement Pension or optional form of payment in effect immediately prior to a suspension of benefits shall remain effective if the Member's death occurs while his benefits are in suspension. If a Member has returned to service under Section 6.8(a), he shall not be entitled to a new election as to the form of payment when his service under Section 6.8(a) subsequently terminates unless (A) prior to his suspension he retired and commenced receiving benefits on an Earlier Retirement Date and (B) he earns at least 500 Hours of Service after his return to employment. In such event the Member may make a new election in accordance with Plan Sections 6.1 and 6.5 with respect to the benefit attributable to the Member's Credited Service earned after the Member returned to Service. No revised election will be permitted with respect to the benefit that was in effect on the Member's original retirement date.

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(g) The amount of a Member's benefit following a suspension of benefits shall be determined as follows. The amount determined under this subsection (g) shall be adjusted for the Standard Retirement Pension or any optional form of benefit as elected by the Member and for any offset because of any prior overpayment. Nothing in this Section shall be understood to extend any benefit increases or adjustment effective after the Member's initial retirement to the benefit earned prior to the Member's initial retirement date, except to the extent that it may be expressly directed by other provisions of the Plan.

(i) If the retirement benefit was first payable on or after a Member's Normal Retirement Date, resumption shall be at the same monthly amount plus any additional benefit attributable to Credited Service earned after reemployment.

(ii) If the retirement benefit was first payable on an Earlier Retirement Date, the resumed amount shall be the same monthly amount (based upon the Retirement Benefit in effect under Section 4.1(b) as of his prior retirement date but otherwise determined as of the Member's subsequent retirement date), reduced to reflect payments previously received by the Member, plus any additional benefit attributable to Credited Service earned after reemployment. If the Member's subsequent retirement date is prior to the Member's Normal Retirement Date, the Member's benefit shall be adjusted to reflect the commencement of benefits prior to the Member's Normal Retirement Date (but shall not be less than the benefit the Member was receiving upon his initial retirement including any applicable adjustments).

(h) A Member who returns to Service and who does not earn at least 500 Hours of Service during a Plan Year after he returns to employment shall not, on subsequent termination of employment, be entitled to a recomputation of his benefit based on the additional service