

**OPERATING ENGINEERS
LOCAL 66
BENEFIT FUND**

Summary Plan
Description

**OPERATING ENGINEERS LOCAL 66
BENEFIT FUND**

UNION TRUSTEES

James T. Kunz, Jr., *Chairman* Thomas M. Durkin

EMPLOYER TRUSTEES

G. Douglas Mosites, *Secretary* Peter R. Broeren

FUND ADMINISTRATOR

Robert T. Jack, C.E.B.S.

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INTRODUCTION

The Board of Trustees is pleased to provide you with this revised booklet explaining the Operating Engineers Local 66 Benefit Fund. The Benefit Fund is maintained to provide you with Extended Unemployment Benefits during periods of unemployment because of lack of work or accident or sickness.

This booklet serves as the plan document and the summary plan description for the Benefit Fund. It sets forth and describes the terms of the Benefit Fund as in effect on July 1, 2009, and it replaces and supersedes all prior booklets and documents. You should read this booklet and refer to it whenever you have questions about the Benefit Fund. If you have questions after reading this, please write or call the Fund Office.

Benefits are funded by contributions your employer has agreed to make to the Benefit Fund under an agreement with the Union or the Board of Trustees. These contributions are held in a trust established for this purpose and managed in accordance with the terms of a trust agreement. You may examine or secure a copy of the trust agreement by contacting the Fund Office.

ELIGIBILITY FOR BENEFITS

General Requirements

The Benefit Fund pays monthly Extended Unemployment Benefits for periods of unemployment because of lack of work or accident or sickness. In order to be eligible for either type of Extended Unemployment Benefits, you must satisfy the following requirements:

1. You must have worked for an employer obligated to contribute to the Benefit Fund on your behalf under a collective bargaining agreement with the Union or a participation agreement with the Board of Trustees. This is referred to as "Covered Employment" in the booklet.
2. You must work for 40 or more hours in Covered Employment in any calendar month during the 12 consecutive calendar month period immediately preceding the calendar month in which you apply for State Unemployment Compensation Benefits (in the case of lack of work) or for State Workers' Compensation Benefits or Weekly Disability Benefits under the Operating Engineers Local 66 Welfare Fund (in the case of accident and sickness). This is referred to as "the Work Requirement" in this booklet. If necessary, any

prior 12 consecutive calendar month period back to 1995 may be used to satisfy the Work Requirement. A period may be used only once for this purpose.

3. You cannot be receiving payment of a retirement benefit under any pension plan, payment of Social Security Retirement or Disability Benefits, or payment of State Unemployment Compensation Benefits or Workers' Compensation Benefits.

Unemployment

In order to be eligible for Extended Unemployment Benefits because of lack of work, you must satisfy the following requirements (in addition to the general requirements noted above):

1. You must not be working in Covered Employment (on 5 or more days or for 40 or more hours in the calendar month an Extended Unemployment Benefit is to be paid).
2. You must be available for work in Covered Employment as shown on the Union's out-of-work list (and as verified by the Union).
3. You cannot have failed to report to work in Covered Employment, or have declined a job referral for work in Covered Employment, since your last period of Covered Employment.
4. You must present evidence that you are ineligible for State Unemployment Compensation Benefits or have exhausted your eligibility for State Unemployment Compensation Benefits.
5. You must satisfy the Work Requirement described above in this Section of the booklet under "General Requirements."

Accident & Sickness

In order to be eligible for Extended Unemployment Benefits because of accident or sickness, you must satisfy the following requirements (in addition to the general requirements noted above):

1. You must be unable to work in Covered Employment because of an occupational or non-occupational accident or sickness as certified by a licensed and qualified medical doctor.
2. You cannot be eligible for Weekly Disability Benefits under the Operating Engineers Local 66 Welfare Fund.

3. You must present evidence that you are ineligible for State Workers' Compensation Benefits or have exhausted your eligibility for State Workers' Compensation Benefits.
4. You must satisfy the Work Requirement described above in this Section of the booklet under "General Requirements."

PAYMENT OF BENEFITS

Monthly Payment and Amount

Extended Unemployment Benefits are paid monthly. The monthly payment is equal to \$1,000.

Commencement of Payment

You must apply for the payment of Extended Unemployment Benefits. (See the "APPLICATIONS AND APPEALS" section of the booklet.)

The first payment will be made for the first calendar month in which you satisfy the eligibility requirements for the payment of Extended Unemployment Benefits. For the first calendar month, you will be eligible for payment of the Extended Unemployment Benefit if you exhaust your eligibility for State Unemployment Compensation Benefits, State Workers' Compensation Benefits or Welfare Fund Weekly Disability Benefits during the month and the amount paid to you for the month is less than \$500.

Payment Date

Payment of an Extended Unemployment Benefit for a calendar month is mailed on or about the 10th day of the following calendar month. For example, the payment for June is typically mailed on July 10th.

If your application for payment is not approved until after the first scheduled payment date, payment of the Extended Unemployment Benefits will begin as soon as practicable after its approval, and the first payment will include the payment(s) due for the prior payment date(s).

Number of Payments

For any single period of eligibility, you will be paid monthly Extended Unemployment Benefits equal to the number of calendar months in which you worked in Covered Employment for 40 or more hours during the same 12 calendar month period used to satisfy the Work Requirement (as described above under "General Requirements in the "ELIGIBILITY FOR BENEFITS" section of the booklet).

The total monthly benefit payments for any single period of eligibility will never exceed 12. Once you have received the maximum benefit payments for a single period of eligibility, all payments and eligibility for payments will cease. Thereafter, you must again return to Covered Employment and reestablish eligibility in order to receive Extended Unemployment Benefits.

A single period of eligibility includes eligibility to receive Extended Unemployment Benefits because of lack of work and accident or sickness.

Monthly Reporting/Suspension of Payment

Each monthly payment will be accompanied by a Monthly Reporting Form. You must complete and return that Form to the Fund Office by the end of the calendar month in which received to report any Covered Employment worked in that month and/or the receipt in that month of any State Unemployment Compensation Benefits or Workers' Compensation Benefits or any Social Security Retirement or Disability Benefits.

If you do not file a properly completed Monthly Reporting Form, you will become ineligible for the payment of Extended Unemployment Benefits. In such case, you may reestablish your eligibility for Extended Unemployment Benefits by filing a properly completed Monthly Reporting Form with the Fund Office.

Reemployment/Suspension of Payment

Payment of your Extended Unemployment Benefits for a calendar month will be suspended if you work in Covered Employment on 5 or more days in a calendar month or for 40 or more hours in a calendar month. This work must be reported on the Monthly Reporting Form filed with the Fund Office for that month.

In such case, if your Covered Employment terminates without you establishing eligibility for State Unemployment Compensation Benefits, Workers' Compensation Benefits or Weekly Disability Benefits, payment of the suspended Extended Unemployment Benefits may resume.

APPLICATIONS AND APPEALS

Application

You must apply for the payment of Extended Unemployment Benefits. The application form is available from the Fund Office.

The completed Application Form should be filed with the Fund Office along with documentation of your ineligibility for State Unemployment Benefits or State Workers' Compensation Benefits (as applicable) or the exhaustion of those Benefits. You will be provided with additional

information on the required documentation and information with the Application Form.

Denied Application

If your application is denied, within 30 days of its receipt by the Fund Office, you will receive a written explanation setting forth:

- the reasons for the denial;
- the provisions that support those reasons;
- any additional material or information you must provide to support your application and an explanation of why it is necessary;
- the appeal procedures for further review of your application; and
- a statement of your right to bring a lawsuit under ERISA in the event of an adverse decision upon review of the denial.

If you apply for Extended Unemployment Benefits because of accident and sickness, the written explanation will also include the following, if applicable:

- If the denial relied on any internal rule, guideline, protocol or other similar criterion, a copy will be included with the denial notice, or the denial notice will tell you how to request a copy free of charge.
- If the denial was based on a medical necessity or experimental treatment or similar exclusion or limit, the denial notice will explain the scientific or clinical judgment for the denial (including how the plan provisions apply to your medical circumstances), or the denial notice will tell you how to request such an explanation free of charge.

If additional information is needed to resolve any issues preventing a decision on your application because of accident and sickness, you will be provided with 45 days to provide the information. Until you respond, the period to make a decision on your application will be suspended.

Appeal of Denied Application

You have a right to appeal any denial of your application to the Board of Trustees by submitting a written request of appeal to the Fund Office.

For an application for Extended Unemployment Benefits because of lack of work, your written request for appeal must be received within 90 days of the date you receive the denial. For an application for Extended Unemployment Benefits because of accident and sickness, your written request

for appeal must be received within 180 days of the date you receive the denial. If you do not file a timely appeal, you will forfeit your right to have your benefit denial reviewed on appeal and your right to file a lawsuit in court.

Your appeal should set forth all of the reasons why you believe your application should not have been denied. Your appeal should also identify and include all of the issues related to your application and eligibility for Extended Unemployment Benefits. Your right to file a lawsuit in court after an adverse decision on appeal is limited to the reasons and issues you raise for review by the Board of Trustees.

You may submit any documents, records or other information you believe have a bearing on your application. In preparing your appeal, you may review relevant documents and receive copies free of charge. If related to an application for Extended Unemployment Benefits because of accident and sickness, you may also request the identity of any medical or vocational experts whose advice was obtained in connection with the denial of your application, whether or not relied on.

Review of Appeal

The Board of Trustees has the authority and discretion to interpret and apply the terms of the Benefit Fund and to resolve all legal and factual issues regarding the Fund and the benefits thereunder.

Provided that regularly scheduled meetings are held at least quarterly, the Board of Trustees will review your appeal of a denied application by the date of its next meeting if the Fund Office receives your written appeal at least 30 days before the meeting. If filed within 30 days of a meeting, the Board of Trustees will review your appeal by the date of the second meeting following the receipt of your written appeal by the Fund Office. If there are not regularly scheduled quarterly meetings, the Board of Trustees will review your appeal within 60 days of the receipt of your written appeal by the Fund Office.

The Board of Trustees will issue a written decision on your appeal. This decision is final and binding on all interested parties. If adverse, the written decision will include:

- the reasons for the decision;
- the provisions on which the decision is based;
- a statement of your right to examine documents that are relevant to your application for benefits and to receive copies free of charge; and
- a statement of your right to bring a lawsuit under ERISA (on issues raised and considered in the appeal).

For an application for Extended Unemployment Benefits because of accident and sickness, an adverse written decision will also include the following, if applicable:

- If the decision relied on any internal rule, guideline, protocol or other similar criterion, a copy will be included with the written decision, or the written decision will tell you how to request a copy free of charge.
- If the decision was based on a medical necessity or experimental treatment or similar exclusion or limit, the written decision will explain the scientific or clinical judgment for the denial (including how the Plan provisions apply to your medical circumstances), or the written decision will tell you how to request an explanation free of charge.

Representative

You may designate a duly authorized representative to file an application for payment on your behalf and/or to appeal a denial to the Board of Trustees on your behalf. You will generally be required to provide a written statement of the designation, along with an authorization to release information to your representative.

OTHER IMPORTANT FUND INFORMATION

Payment Only From Fund Assets

Extended Unemployment Benefits are paid only from the assets of the Benefit Fund held in the trust. No person has any right, title or interest in those assets, except the right to receive benefits in accordance with the provisions of the Benefit Fund.

Information to Board of Trustees

You must furnish the Board of Trustees with the information that the Board considers necessary or desirable to administer the Benefit Fund. Failure to provide the information can result in the suspension or postponement of the payment of benefits.

False or Fraudulent Information

If you furnish false or fraudulent information, benefits will be denied, suspended or discontinued.

Recovery of Benefits

You are entitled to receive only the Extended Unemployment Benefits payable in accordance with the provisions of the Benefit Fund.

You must hold any overpayments or mistaken payments for the benefit and reimbursement of the Benefit Fund. The Benefit Fund has a claim to all overpayments and mistaken payments and may recover the same directly from you or by reducing any future payments due under the Benefit Fund.

Assignment of Benefits

You cannot assign, sell or transfer your Extended Unemployment Benefits.

Amendment and Termination

The Board of Trustees has the right to amend or modify the Benefit Fund at any time and in any manner and to terminate the Benefit Fund at any time.

ADMINISTRATIVE FACTS

Plan Name

Operating Engineers Local 66 Benefit Fund

Plan Type/Identification

The Benefit Fund is a multiemployer welfare plan providing for unemployment income benefits. It is identified by the following numbers:

- 25-1468610 - the employer identification number assigned to the Board of Trustees by the Internal Revenue Service; and
- 501 - the plan number assigned to the Fund by the Board of Trustees.

Plan Sponsor and Administrator/Fund Office

The Board of Trustees, with offices located at 111 Zeta Drive, Pittsburgh, PA 15238, is the plan sponsor and the plan administrator of the Benefit Fund and has the power and authority necessary to administer and carry out the provisions of the Benefit Fund. The members of the Board of Trustees are:

Union Trustees

James T. Kunz, Jr., *Chairman*
Thomas M. Durkin

Employer Trustees

Douglas Mosites, *Secretary*
Peter R. Broeren

The Benefit Fund is administered through the Fund Office, Operating Engineers Local 66 AFL-CIO and Construction Industry Combined Funds, Inc.

Contributions/Employers

Contributions to the Benefit Fund are made by employers in accordance with collective bargaining agreements with the International Union of Operating Engineers, Local 66, and participation agreements with the Trustees. Upon written request, the Fund Office will provide information as to whether an employer is contributing to the Benefit Fund.

Collective Bargaining Agreement

The Benefit Fund is maintained pursuant to collective bargaining agreements with the International Union of Operating Engineers, Local 66. You may examine or secure a copy by contacting the Union.

Interpretation of Benefit Fund

The Benefit Fund may be interpreted only by the Board of Trustees, and no other person has the authority to interpret the Benefit Fund or make any representations regarding the Benefit Fund. To the extent not preempted by federal law, the applicable laws of the Commonwealth of Pennsylvania shall apply.

Funding Medium/Plan Assets

Assets used to provide benefits under the Benefit Fund are held in trust by the Board of Trustees under the terms and conditions of a trust agreement. The trust assets are held in custody by PNC Bank, N.A. and invested by investment managers selected by the Board of Trustees. The trust is incorporated as part of the Benefit Fund.

Plan Year

The plan year for the Benefit Fund is the calendar year.

Legal Process

Legal process may be served upon Robert T. Jack, Fund Administrator, at the Fund Office's address, or upon a Trustee.

U.S. DEPARTMENT OF LABOR STATEMENT OF ERISA RIGHTS

As a participant in the Benefit Fund you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

Receive Information About Your Plan and Benefits

Examine, without charge, at the plan administrator's office and at any other specified locations, all documents governing the plan, collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.

Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The administrator may make a reasonable charge for the copies.

Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

Prudent Actions by Plan Fiduciaries

In addition to creating rights for plan participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the plan

administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with Your Questions

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.