

CNPC RESOLUTION NO. 26: SEVEN POINTS TO WHICH THE EFPCS SHOULD PAY ATTENTION WHEN ADOPTING THE REMOTE TRANSACTIONS

Continuing our series of comments on the new Resolutions published by the National Council for Supplementary Social Security - CNPC, we will focus on Resolution no. 26, which provides for remote transactions between participants, beneficiaries, or applicants to participants and the closed supplementary social security entities - EFPCs.

The Resolution defines a remote transaction as “any remote transaction involving a digital platform that requires an express statement from the target public to an EFPC.”

Although it has been regulated only now, this type of transaction is already carried out by several entities, which are exactly the entities that should carefully examine the regulation, because they will have to find out as soon as possible whether their processes are in compliance with it and, if need be, to adjust them.

Below we list the seven points to which the EFPCs should pay close attention and that will help them identify if they are meeting the regulation, which, it should be noted, took effect on the date of its publication, and does not provide for a period of adjustment. Therefore, in thesis, from April 3, the EFPCs not in compliance with CNPC Resolution no. 6 may be served notice by Previc.

1. Is the authenticity of the access to and use the digital platform verified?

The focus of this first point is to find out whether the access to the digital platform is made through a password or any other means that ensures the authenticity of the access. However, the access via a password is not enough to meet this requirement. The security and integrity of the process to obtain the password are also important to mitigate the risk of a person accessing the system with a password of another person.

It is inferred from the text of the resolution that where the platform is accessed through a password, the signature of documents is not necessary and the EFPC may use the digital forms. In the events the user does not have a password — as it is usual in the case of applicants to participant — the signature of the form is indispensable.

2. Is there a procedure to ensure the confidentiality and integrity of the transmission and the safekeeping of data and documents?

In view that most information related to a benefit plan is sensitive, the EFPC must ensure the confidentiality of the data electronically received and their integrity,

including in regard to their safekeeping, to eliminate the need for physical documents.

IT standards that must be met to ensure the security of a website or an application. Therefore, this rule must be understood in light of these standards.

3. Does the participant have access to the history of the remote transactions requested and confirmed, as well as to the documents transmitted through this means?

This is an innovation introduced by the rule, which is likely to result in many entities not fitting the provisions of the resolution at this first moment.

The availability of the history of the requests made remotely and the status of each of them is now necessary. The Resolution provides that the EFPC will ensure “the availability of data and documents”, and it seems to us that this is a generic rule that will be observed when the data and documents electronically sent by the user will be available for consultation on the digital platform and the system administrator will make the access logs available in its database.

4. Is an electronic protocol issued when a remote transaction is requested?

The most common means to issue a protocol is a confirmation e-mail indicating a number that must be informed to follow up on a request.

The rule does not establish the protocol means that will be accepted, and the chosen form must be able to ensure the user that the transaction was performed at a given date and time.

5. Do the electronic forms or other places of the digital platform contain enough information for the participants to know the risks and consequences of each request?

In view that the remote transactions adopt a self-service model, the users must be ensured all elements necessary for them to make a decision.

This occurs in most operations performed through websites or applications, which allow the users to complete the request only after they have agreed to the terms and conditions displayed, demonstrating their full awareness of what is being done.

6. After the request, is the date of effectiveness of the desired transactions informed?

This is a rule that the EFPCs hardly accomplish and that applies to specific situations in which the request will cause a change in the status of the participant/beneficiary in the plan from a certain occasion.

For example, it applies to the moment of the adhesion to the plan, when the EFPC, after having received the request, will inform that the adhesion will be effective from day “x.” This is also valid for changes to the contribution rate, the benefit request, and to plan cancellation, etc., that is, events in which the effectiveness date of the requested change must be informed. The Resolution provides that such information will be given “on the occasion the transaction is requested,” that is, the effectiveness date must be informed to the user immediately after the request.

7. Does the EFPC keep a structure for face-to-face assistance?

When establishing that a structure alternative to the remote one must be kept, the Resolution uses the expression “non remote” instead of “face-to-face.” However, we think that the best interpretation is to understand those terms as synonyms. That is, the face-to-face assistance must be ensured to all interested, without any discriminatory treatment.

The Resolution does not detail the non-discriminatory treatment but it is reasonable to conclude that the face-to-face assistance is restricted to the head office of the entity, even though the participants may live in other places, since a requirement for face-to-face assistance in different places would be economically ineffective and would burden the participants and the sponsors, which ultimately are those that support the entity. However, this is a subjective criterion, which must be evaluated case-by-case.