

Any employer with a 401(k) or Medical Care Plan has a Fiduciary exposure.

Who is a Fiduciary?

- Anyone who exercises any discretionary authority or control over the management or administration of an employee benefit plan or its assets is a Fiduciary.
- Fiduciaries face personal liability and can be sued by employees for any alleged breach of fiduciary duty. Personal assets of individual managers are exposed.

Did you know?

- ERISA specifically prevents those responsible for running employee benefit plans from transferring their personal liability to a third party by contract. ERISA holds plan fiduciaries responsible for the selection and monitoring of Third Party Administrators.
- Crime policies & ERISA bonds only cover theft of plan assets. They do not cover liability or defense of claims.
- Employee Benefits Liability only covers administrative mistakes in the day to day operations of a plan.
- The Department of Labor investigates over 5,000 businesses each year on its own accord.

A Fiduciary Liability claim can be alleged from:

- Failure to monitor investments
- Bad investment decisions
- Denial of a health care claim
- Perceived decrease in benefits
- Misrepresentation of facts
- And more...

The average defense cost of a Fiduciary claim in 2004 was \$365,000.

The average indemnity payment of a Fiduciary claim in 2004 was over \$1,000,000.

**Can you afford not to have
Fiduciary coverage?**

Over 11,000 ERISA claims were filed in 2004. Companies like Enron & WorldCom represent only a handful of Fiduciary claims. The vast majority are filed against small and mid-sized businesses that sponsor 401(k), profit sharing, pension, or medical plans for their employees.

Claims Scenarios

The provider under a media company's health plan denied payment for an employee's medical costs after hospitalization, due to improper notification. The employee had contacted the plan administrator and was advised that she did not need to contact the provider directly. Reporting rules, however, had recently changed. The employee sued the plan administrator and employer, alleging improper advice. The case settled for \$500,000 plus attorney fees.

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\$630,000 was ordered to be restored to the profit sharing plan of a tool manufacturing company. The company President had taken an improper loan from the plan in violation of ERISA. The plan had only 76 employee participants.

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CONTACT US FOR A QUOTE!



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