

BENEFITS INSIGHTS

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Basics of ERISA Welfare Benefit Plans

A group health plan is an employee welfare benefit plan established or maintained by an employer or an employee organization, or both, that provides medical care for employees and/or their dependents directly through insurance or reimbursement. The Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code are the two key laws governing these welfare benefit plans.

General ERISA Responsibilities

ERISA sets minimum standards for most pension and health plans in the private industry to provide protection for individuals in these plans. ERISA applies to employee benefit plans, including welfare benefit plans, with some exceptions.

ERISA requires plans to provide participants with plan information including important information about plan features and funding, provides fiduciary responsibilities for those who manage and control plan assets, requires plans to establish a grievance and appeals process for participants to get benefits from their plans, and gives participants the right to sue for benefits and breaches of fiduciary duty.

Welfare benefit plans must meet ERISA rules on:

- Reporting and disclosure to participants and the Department of Labor
- Benefit claims procedures and denials
- Fiduciary responsibility
- Prohibited transactions

Plans subject to ERISA:

- Medical, surgical or hospital benefits
- Dental or vision benefits
- Prescription drug benefits
- Health reimbursement arrangements (HRAs)
- Health flexible spending accounts (FSAs)
- Group life insurance benefits
- Accidental death and dismemberment (AD&D) benefits
- Employee assistance plans (EAPs), when medical care is provided
- Disability benefits (if insured or funded other than as a payroll practice)

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- Prepaid legal services
 - Disease-specific coverage

In general, ERISA does not cover group health plans established or maintained by governmental entities, churches for their employees or plans that are maintained solely to comply with applicable workers' compensation, unemployment or disability laws. ERISA also does not cover plans maintained outside the United States primarily for the benefit of nonresident citizens or unfunded excess benefit plans.

Determining exactly which plans are ERISA welfare benefit plans is complicated. Employers looking to provide benefits to employees without originally creating an ERISA-qualified plan should use extreme caution and should consult with their legal counsel as they may inadvertently create an ERISA plan, subjecting it to ERISA's rules.

