Beware: Employers That Offer Life Insurance

By Michelle Cammayo

Group life insurance is a standard benefit offering for most for a well-rounded employee benefits package; however, the employer takes on certain obligations when offering life insurance. There have been many lawsuits from beneficiaries stemming from the absence of certain employer requirements as it relates to life insurance.

If you are currently offering life insurance (employer paid or voluntary) for your employees, here are the top three overlooked requirements:

Compliance Consideration 1: Life Insurance Conversion Notice

The state of California (and other states) requires the employer to provide a terminated participant with a Life Insurance Conversion Notice within 15 days from the date the coverage ends. The terminated employee then has 31 days from the date the coverage ends in order to apply for continuation of the life insurance coverage, as outlined in the carrier contract. Please note that an employer should reference their specific carrier contract for more details.

Best Practice: Protect yourself and your company by mailing or delivering the Life Insurance Conversion Notice and Application within 15 days of the employee's date of coverage termination. Deliver the forms in such a way that you are able to furnish proof to protect your company from potential legal action.

Compliance Consideration 2: Employees on Leave Due to Disability

The majority of group life insurance policies include a waiver of premium provision. This provision is an enhancement as it provides life insurance benefits without payment of premiums for those that meet certain requirements. The payment of premium is transferred to the insurance company instead of the employee or employer. Please note that an employer should reference their specific contract for more details.

Employers are responsible for notifying their employees of the waiver of premium provision. A plan sponsor (i.e. the employer) can satisfy this requirement by furnishing a Summary Plan Description to the plan participant within 90 days of their entry into the plan, as described in the ERISA disclosure regulations.

Best Practice: A conservative approach would be to include the life insurance contract and waiver of premium application in the leave of absence (LOA) paperwork process. In addition, an employer could have an employee sign an acknowledgment receipt so that your company can furnish proof that the documents were received.

Compliance Consideration 3: Changing Life Insurance Carriers

Changing Life Insurance carriers can be relatively simple; however, a missed step could mean serious liability for the employer. With open enrollment season open us; carrier changes are looming.

Do you have employees on leave? At the time of implementation, life insurance carriers generally cover only those employees who are actively at work.

Best Practice: Follow these steps to avoid a gap in coverage to help prevent potential liability that may arise from employees on leave while transitioning carriers.

1. Prior to your effective date with the new carrier, terminate the applicable employees from the current group life insurance policy.
2. Once terminated, notify the employee on leave of their right to convert the group life insurance policy. This notice must be delivered within 15 days of the coverage termination date. To eliminate any risk, mail or deliver the conversion notice and application in such a way that you can furnish proof that it was delivered.
3. In addition, if the leave is due to a disability, the employee should be directed to file for a waiver of premium with the current carrier.

It's important to note that carrier contracts may differ in many areas including:

- Date when life insurance ends (i.e. date the employee goes on leave, after exhaustion of FMLA, etc.).
- Timing & length around the waiver of premium application period.
- Distribution of Notice of Conversion Rights (most carriers transfer this obligation to the employer, but not always) – do not assume the life insurance carrier is doing this as the majority transfer responsibility to the employer via the administration manual.
- Unlimited Time Off – carrier contracts address leave of absences; however, they may not address a leave of absence under an "unlimited time off" policy. Be sure to connect with your carrier if your employer doesn't classify a leave of absence separately.

Protecting yourself and your company while administering benefits is crucial in employee benefits because ERISA and other laws do impose legal obligations on those employers offering benefits. Legal obligations can quickly lead to compliance gaps that result in costly employee lawsuits. As mentioned in my in article in the April newsletter titled *Human Resources Professionals: Protecting Your Job While Administering Benefits*, Employee Benefits Liability E&O (EBL E&O) helps transfer the risk of any inadvertent wrongdoing. The aforementioned Life Insurance obligations may be a good time to ensure you and your company are protected by Employee Benefits Liability insurance.

For questions regarding your specific life insurance policy or EBL E&O, please contact your broker.

***Michelle Cammayo** has more than a decade of Employee Benefits experience specializing in all lines of health and welfare benefits, including Medical, Dental, Vision, Basic and Voluntary Life, Short and Long-Term Disability and Employee Assistance Programs. Her primary roles and responsibilities include carrier negotiations, strategic oversight, and educating HR staff and employees with regards to employee benefit packages and/or solutions.*

With an established track record of providing solutions to clients' unique challenges, Michelle leads with a forward-thinking philosophy and proactive approach to all areas of benefit program management. She has driven the process on Wellness Initiatives, Health Fairs, Employee Benefit Communication Campaigns and Technology Solutions for several clients, and has implemented and serviced alternative funding contracts, including level funding, graded preferred funding, self-funding with stop loss, minimum premium contracts and participating contracts. She also has extensive, hands-on experience with several HRIS systems. For questions, contact Michelle here.