



GMS INSURANCE

Employee Benefits  
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**Poor Administration Practices Open the Door to Costly Liability**

Plan administrators have a responsibility to both their employees and their company to manage the administration of their plan in accordance with the terms of the insurance contract. Neglecting these responsibilities can lead to costly legal battles and settlements. Spending just a few minutes each month to ensure that your plan is current can save you more time in the future and thousands of dollars in legal fees.

Here, we outline some of the more frequent scenarios that leave you and your company exposed to liability.

**Situation: Spousal Coverage**

An employee has coverage through their spouse so the plan administrator does not enrol him on the company plan for any benefits.

**Risk:** There are a couple of risks with allowing this practice:

1) If the spouse loses coverage, the employee will want to participate in your group plan but because s/he was not enrolled properly when s/he was first eligible, all family members will be considered late applicants and will have restricted coverage. (More on late applicants later.)

2) The terms of the contract entitle the employee to the benefits. In the event of disability or death, the employee or the estate of the deceased employee may sue for benefit payment leaving the company responsible for large sums of money.

**Proper Procedure:** Employees with spousal coverage may opt out of health and dental benefits only. The enrolment form provides a section for the employee to elect to waive health and dental benefits due to spousal coverage. This section must be

completed. Enrol the employee for all other benefits.

**Situation: Non-Evidence Maximum Application**

Life and Disability benefits may have two levels of coverage - the overall maximum and a non-evidence maximum (NEM). The NEM is the highest amount of coverage an employee can get without providing medical information to the insurer. Employees who are eligible for coverage over the NEM have the option to apply for it. The plan administrator does not notify the employee of the availability of this coverage or how to get it.

**Risk:** In the event of disability, an employee who was eligible for more coverage may sue for the additional amounts claiming that he was never notified. A deceased employee's estate can make a similar claim for the life insurance benefit.

**Proper Procedure:** The plan administrator should notify the employee in writing how much they are eligible for and how to go about applying for it. If the employee declines the additional coverage, have them sign a document confirming that they were told the coverage was available.

**Situation: Benefit Extension**

An employee is offered a benefit extension package as part of a termination agreement or during a leave of absence. The extension has not been approved by the insurance company.

**Risk:** The insurance company can decline the claim because the employee was not actively at work and did not meet the eligibility requirements set out in the contract. The company is responsible for all claim costs.

**Proper Procedure:** Get written approval for benefit extensions from

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the insurance company before making the offer to the employee. Often the insurance company will work with you to meet your request but there are some benefits that may not be continued such as LTD and travel coverage. There are also limits to how long of an extension they will grant. Once the extension has been approved by the insurance company, clearly define in writing to the employee what benefits will be extended and for how long.

**Situation: *Notice of Disability***

Some benefits such as life insurance and long-term disability include a benefit called waiver of premium (WOP). It allows the coverage to remain in force without the associated premium while employees are away from work due to a disability. If the life insurance and LTD is with the same provider, the WOP is automatically processed with the LTD claim. However, if there is no LTD coverage or it is with another carrier, an application must be made to apply the WOP for the life insurance benefit. This is often overlooked.

**Risk:** A worker on disability leave and not approved for Life WOP may prevent you from changing insurance companies if you wanted to. This is because they do not want to assume the risk associated with that person. It also means that you are paying for a benefit that you do not have to thereby increasing your costs.

**Proper Procedure:** Apply for the life WOP at the same time the LTD application is made.

**Situation: *Failure to Apply for LTD***

An employee is away from work due to a Worker's Compensation (WC) claim. The employee is collecting benefits through WC so an LTD claim is not submitted.

**Risk:** The WC payments cease but the employee is still off work and meets the definition of disability under the company LTD plan. The application

for LTD coverage is denied because the claim was not submitted within a reasonable timeframe. The employee sues the employer for not providing and submitting the required claims forms on time.

**Proper Procedure:** Always supply the LTD forms to the employee to complete and submit at the time of the WC claim. Complete and submit the employer portion of the claim form right away. Document that the process was relayed to the employee. The offset provision in the LTD contract may mean that there are no payments from the LTD plan but at least you and the employee are covered in the event that WC ends.

**Situation: *Late Applicants***

An enrolment or change form is not submitted within 30 days of the eligibility date.

**Risk:** The employee and the family are considered late applicants. A late applicant must submit a health questionnaire. Based on this information the insurance company may decline coverage. The plan administrator may be sued for not enrolling the employee on time and be responsible for the insurance the employee would have otherwise been

entitled to.

**Proper Procedure:** Submit enrolment and change forms within 30 days of the date of eligibility. Follow up with employees to ensure you get the form back in time. Consider adding the form as part of your hiring/offer of employment process.

**Situation: *Out of Date Earnings***

Life and disability benefit calculations may be based on earnings. The administrator only updates earnings once year.

**Risk:** If an employee becomes disabled or dies before the earnings change is processed, the company may be responsible for the difference in the amount owing.

**Proper Procedure:** Report earnings when they become effective.

## Quiz Corner

*Put your mental mettle to the test and a \$50 prize in your pocket!*

**Tom is 40. Jerry is 13. How many years ago was Tom four times as old as Jerry?**

**Answers can be sent to: [info@gmsinsurance.com](mailto:info@gmsinsurance.com) or by fax to 905-670-4146. We will draw a winner from the correct answers and announce the winner in the next newsletter.**

**Our March Quiz Whiz was *John D. Pieroni* who knew that "seven" was the correct answer. Congratulations!**