EMPLOYEE BENEFITS: FIDUCIARY DUTIES, ENROLLMENT SYSTEMS & EMPLOYER RISKS

In May, the Eighth Circuit Court of Appeals upheld a district court's decision in the case of *Skelton v. Radisson Hotel Bloomington* that an employer failed in its role as Plan Administrator of a supplemental life insurance program and the insurer failed its fiduciary duty in determining an employee's eligibility for the same program. This case highlights the exposure that employers have regarding the way in which they provide and maintain benefits for their employees. It also underscores the vital need for an operative, effective benefits enrollment system as well as clear, intentional communication among those charged with managing it.

Case Background

Plaintiff-Appellee Corey Skelton sued his deceased wife's employer, Davidson Hotels LLC, as well as its life and long-term disability carrier, Reliance Standard Life Insurance Company, for the mishandling of his wife's supplemental life insurance enrollment. When the couple assumed custody of Ms. Skelton's dependent stepson, Davidson mistakenly advised her that the change in custody qualified as a life event that allowed her to elect supplemental life insurance, which she did.

Reliance advised Ms. Skelton that she would need to complete evidence of insurability ("EOI") and return it to them, and that she would not be charged premiums until Reliance approved the coverage. There is no evidence that she submitted an EOI. However, Davidson sent her a benefit verification document and began charging her premiums for the supplemental insurance coverage.

Davidson sent Reliance premiums for all employees in one check (a practice known as "bulk billing") but did not provide a list of the employees whom it believed were enrolled for what coverage, or from whom the premiums were received. As a result, Reliance's system did not collect the information which would have allowed it to determine that it was mistakenly receiving premiums collected from Ms. Skelton.

After Ms. Skelton died, Mr. Skelton filed a claim which included the supplemental life insurance benefits which Reliance denied on the basis that coverage was pending because it had not received an EOI. In response, Mr. Skelton sued Davidson, Reliance and other parties alleging violations of the Employee Retirement Income Security Act of 1974 (“ERISA”).

Initial Ruling

In district court, both Davidson and Reliance were ordered to pay damages. The court determined that Davidson’s documents identified it as the “Plan Administrator” with general “discretionary authority to interpret the Plan,” and determine eligibility for coverage and eligibility for claims. The court also determined that Reliance had breached its fiduciary “duty to ensure its system of administration did not allow it to collect premiums until coverage was actually” effective. Mr. Skelton settled with Davidson, but Reliance appealed.

Final Ruling

Upon review, the Eighth Circuit affirmed the judgement. First, they determined that Reliance indeed had a fiduciary role in Ms. Skelton’s attempted enrollment for the coverage. The policy makes Reliance a fiduciary for her eligibility and enrollment because it delegates Reliance as the “claims review fiduciary” and it had with “final and binding authority” to determine eligibility. They explained that the mere receipt of the bulk billing payments does not make an insurer a fiduciary, but, in this case, the policy and Reliance’s practices make it a “relevant fiduciary.”

Second, the court determined that Reliance had breached its fiduciary duties of prudence and loyalty by failing to maintain an effective enrollment system. “A reasonably prudent insurer…would use a system that avoids the employer and insurer having different lists of eligible, enrolled participants.” The court observed that ERISA’s duty of loyalty obligated Reliance to verify that the premiums it received came only from eligible, enrolled employees. Further, Reliance profited on its broken promise to Ms. Skelton by telling her she would not pay premiums until it approved her application but then taking her premiums without approving her application.

The appeals court explained that allowing Reliance to escape liability as a result of a faulty enrollment system would endorse “willful blindness.”

Takeaways from this Case

Both Davidson and Reliance were at fault and ordered to pay damages. Not only did Davidson fail in its role as Plan Administrator by mistakenly charging Ms. Skelton premiums, but it also set the problematic series of events in motion by falsely communicating to her that she had qualified for a life event and could elect supplemental life insurance in the first place.

This type of scenario in which an insurer like Reliance mistakenly collected premiums from an ineligible employee is likely not uncommon when there is a lack of communication between the employer and the insurer and/or when different organizations or even departments within the same organization are operating on incompatible systems. For example, if a company’s payroll administrator were to utilize a system that was incompatible with that company’s employee benefits system, it wouldn’t be surprising if the occasional lack of documentation such as an EOI were to go unnoticed. There are clear benefits to having one uniform system or at least compatible systems among departments, but one could argue that having one or the other is a necessity as well.

In this case, the inefficiency of Reliance's enrollment system was cited as the insurer's primary issue; however, had there been more coordination between the employer, Davidson, and the insurer, Reliance, this situation could potentially have been avoided. ERISA dictates specific guidelines which insurers and plan sponsors must follow in order to comply. We always recommend that companies offering employee benefits enforce clear procedures regarding their systems as well as their correspondence with insurers and other carriers. One of the services we offer at BFG is helping with the process of developing these procedures and educating employees on how to follow and manage them.

Other Potential Employer Risks

When it comes to administering and managing various types of benefit plans, employers are often required to act in a fiduciary capacity, which exposes the employer to risks both within and beyond ERISA.

One potential risk for an employer acting as a fiduciary is broad liability. Some of the duties of a fiduciary include maintaining accurate records, efficiently structuring and posing a menu of offerings, recommending advisors and/or plans, detailing participants' rights and eligibility, etc. When in a fiduciary role, the employer must act in the sole and best interest of the beneficiary. These responsibilities present vast exposure for an employer. Fiduciaries can be held personally liable for breaching their duties regardless of involvement with third-party service providers or banks. Aside from purchasing liability insurance, one prime way to mitigate risk is to evaluate internal operational problems or deficiencies and put procedures in place or utilize an outside HR firm to do this.

Considering the highly competitive market for labor and talent, offering a variety of employee benefits is a key way to find and retain the best employees. However, this perk is not without its risks and challenges for employers.

BFG offers a range of HR, employee benefits and payroll related services with the goal of mitigating your risks and making your job easier. We are here to assist with the back office needs so that our clients have the time to focus on what they do best.

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