

Employee Benefits Liability



Employee benefits liability (EBL) is insurance that covers businesses from errors and omissions that occur when employee benefit plans are administered. These errors and omissions may include failing to enroll, maintain or terminate employees in a plan, and failing to correctly describe benefit plans and eligibility rules to employees.

EBL insurance covers a wide range of plans, including health, dental and life insurance, profit-sharing plans, workers' compensation and employee stock plans. EBL insurance is typically sold as a standalone policy.

EBL Insurance Scenarios

One example of how EBL insurance could protect your company from financial losses is in the instance of an HR manager accidentally failing to enroll a new employee in the company-sponsored health plan. The employee later gets into a car accident and is shocked to find out at the hospital that he or she does not have health insurance. EBL insurance could limit your business's exposure because the failure to enroll was due to an error or omission in administering a health plan.

In addition, EBL insurance could protect employers from some ACA-related claims. For instance, consider a situation in which independent contractors at your company bring forth a lawsuit arguing they have been wrongfully misclassified as independent contractors. They argue that they should instead be considered full-time employees, and, therefore, eligible for health insurance under the Affordable Care Act (ACA). An EBL insurance

policy could shield your business in such a case, assuming the misclassification was not done intentionally.

EBL vs. Fiduciary Liability

Many people confuse EBL insurance with fiduciary liability insurance. While there are some similarities between the two types of insurance, EBL insurance is designed to protect businesses from errors and omissions in a wide range of plans. Fiduciary liability insurance, on the other hand, aims to protect businesses from Employee Retirement Income Security Act (ERISA) exposures for specifically designated plans that result from a wrongful act.

Fiduciary liability insurance is broader than an EBL insurance policy because it covers not only administrative errors and omissions, but also liability for a breach of fiduciary duty from negligent acts in the administration of employee benefit plans. In addition, many EBL insurers specifically exclude any claims resulting from ERISA violations.

EBL insurance can help protect your business from mistakes made during benefits administration. This type of insurance should not be used as a substitute for good risk management, though. For more information on whether EBL insurance is right for your business, contact Marshall & Sterling, Inc. today.

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