AXIS INSURANCE SERVICES, LLC

Fiduciary Liability Insurance

What is Fiduciary Liability Insurance?

Fiduciary liability insurance pays, on behalf of the insured, the legal liability arising from claims relating to negligence in the oversight or management of others' money or assets. These assets could include 401k plans, pension plans, self-funded health plans or other member benefit plans. The "insured" can be any trustee, officer, director, employee or individual that participates or manages an employee benefit plan.

Who is considered a Fiduciary?

A Fiduciary is an individual owner or officer who makes decisions about your company's 401(k) plan or other qualified employee benefit plan(s), or anyone else with discretionary authority over the administration of those plans or their assets. The term fiduciary is loosely defined as a person within the company who is accountable for plan asset decisions. Fiduciary is a functional title, i.e., if you are performing fiduciary functions, then you are a fiduciary regardless of your title.

Why do I need a Fiduciary Liability Insurance policy?

Fiduciaries may be held personally liable for breach of their responsibilities in the administration or handling of employee benefit plans. Fiduciaries act as advisors to employees often relying on third parties to provide guidance. These third parties may or may not have the employees' best interests in mind and can ultimately impact the fiduciary's ability to offer sound advice. In addition, fiduciaries are not the only ones liable - the employer and the benefit plan provider itself could face liability as well.

What does a Fiduciary Liability Insurance policy cover?

Examples of claims that are typically covered by Fiduciary liability policies are:

- Conflicts of interest
- Irresponsible investments
- Failure to file required reports
- Negligent investment practices
- Failure to diversify investments
- Errors in determining benefit plan eligibility
- Unsuitable election of advisors or service providers

Why choose Axis Insurance Services?

Unlike most brokers, our professionals specialize in professional liability and are nationally recognized. Our years of expertise in the industry allow us direct access to high-quality insurance carriers, extremely competitive rates and the ability to customize insurance solutions to meet the needs of our clients. Call us for a quick review of your current policy to ensure you and your business are properly protected.

6/1/15

Contact our experts today to find out how you can protect your business.

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Statistics

Recent studies have found significant increases in claims severity and rate. The frequency of claims against fiduciaries has increased threefold since the late 1990s. Plan fiduciaries now surpass the medical profession as a target for litigation.

- More than **90%** of the claims are filed by plan participants
- Nearly **50%** of the claims arise out of benefits disputes
- Breach of fiduciary duty represents **25%** of all claims against benefit plan advisors

Source: FINRA

Claim Scenarios:

Poor Advisement

Employees were provided an option to invest in a guaranteed investment which was backed by a poorly performing insurance company. The employees sued the plan fiduciaries alleging that they breached their fiduciary duties by offering this option and their duty of disclosure by providing misleading or incomplete communications. The case resulted in a $3,250,000 settlement.

Pension Rights

An employee was given their spouse's retirement funds using a signed spousal release form, which the plan administrator had improperly notarized. The spouse claimed the plan participant forged the signature on the spousal release form. The spouse of the employee sued the plan administrator and the sponsor organization for the spousal pension rights. The case awarded the spouse a with $400,000 settlement.

Administrator Inaction

An employee had announced plans to retire and requested for a pension calculation in writing but the plan administrator took over 45 days to value the plan assets. During that time there was a major drop in the stock market which had a negative impact on the value of the retirement funds. The retired employee sued the plan administrator and the pension plan alleging an error in administration and a miscalculation of plan benefits. The case resulted in an $80,000 settlement.

Missed Calculations

A group of a company's current and retired female employees claimed that their pension plans failed to account for maternity leave when calculating time in active service. The group formed a class action claim and sued the plan administrator, the plan and sponsor organization. The case exceeded $2,500,000 in settlement and defense costs.

These are only claims examples: minor changes from actual suits have been made to protect the confidentiality of all clients.

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