

11/7/2022

Employee Benefits Compliance

## ERISA Status of Common Fringe Benefits

Type Of Fringe Benefit	ERISA Status
<b>Accidental Death &amp; Dismemberment (AD&amp;D) Insurance</b>	Yes.
<b>Accident Insurance</b>	Yes. Unless an exempt voluntary plan.
<b>Adoption Assistance</b>	No.
<b>Automobile</b>	No.
<b>Biometrics Screening</b>	Yes.
<b>Business Travel Accident Policies</b>	Yes.
<b>Cafeteria Plan</b>	No. But component plans (H-FSA) may be.
<b>Commuting Benefits (transportation allowance, free parking, mass transit passes)</b>	No.
<b>Critical Illness</b>	Yes. Unless an exempt voluntary plan.
<b>Day-Care Center</b>	Yes. Distinguished from DCAP.
<b>Dental Benefits (whether insured or self-insured)</b>	Yes.
<b>Dependent Care Assistance Programs (DCAPs)</b>	No.
<b>Disability Benefits (both LTD and STD, funded as payroll practice)*</b>	No. Payroll practice safe harbor has conditions.
<b>Disability Benefits (both LTD and STD, if insured or funded other than as payroll practice)*</b>	Yes.
<b>Disability Insurance (provided solely to comply with state law)</b>	No.
<b>Discount on Employer Goods or Services</b>	Maybe.
<b>Disease-Management Program</b>	Generally yes. Depends on whether plan offers medical care.
<b>Disease-Specific Coverage</b>	Yes.

<b>Employee Assistance Plans (EAPs)</b>	Most often yes.
<b>Executive Medical Coverage</b>	Yes.
<b>Flu-Shot Programs</b>	Yes.
<b>Group Term (universal or variable) Life Insurance</b>	Yes.
<b>Health Coaching</b>	Maybe. Depends on whether plan offers medical care.
<b>Health, Fitness, Exercise Club Membership</b>	Generally no. Depends on whether plan offers medical care.
<b>Health Flexible Spending Arrangements (Health FSAs)</b>	Yes.
<b>Health Insurance or Coverage (whether insured or self-insured)</b>	Yes.
<b>Health Reimbursement Arrangements (HRAs)</b>	Yes.
<b>Health Savings Accounts (HSAs)</b>	No.
<b>Health Screenings (cholesterol, blood pressure, bone density)</b>	Yes.
<b>Homeowners Insurance</b>	No.
<b>Hospital Indemnity Coverage</b>	Likely yes. Unless an exempt voluntary plan.
<b>Identity Theft Prevention Programs</b>	No.
<b>Long-Term Care Plans</b>	Probably.
<b>On-Site First Aid Facilities Only (very rare)</b>	Generally no (even if limited medical benefits are provided).
<b>On-Site Medical Clinic (beyond first aid)</b>	Yes.
<b>Pet Insurance</b>	No.
<b>Physical Examination Benefits</b>	Probably.
<b>Prepaid Legal Services</b>	Yes.
<b>Prescription Drug Plan</b>	Yes.
<b>Telemedicine</b>	Yes.

<b>Transportation Benefits</b>	No.
<b>Travel Accident Insurance Program</b>	Yes.
<b>Tuition Reimbursement</b>	No.
<b>Unemployment Compensation (provided solely to comply with state law)</b>	No.
<b>Vision Discount Plans</b>	Probably.
<b>Vision Plans (whether insured or self-insured)</b>	Yes.
<b>Wellness Programs</b>	Generally yes. Depends on whether the program offers medical care.
<b>Workers' Compensation Benefits (provided solely to comply with state law)</b>	No.

\* Certain self-funded employer sponsored disability plans (and other wage replacement benefits) have been excepted by DOL as “payroll practices.” Specifically, payment of an employee's “normal compensation” (benefits can be a reduced percentage of compensation but can never exceed normal compensation) that is unfunded (i.e., that is paid out of an employer's general assets, not a trust or through insurance) for periods of time during which an employee is physically or mentally unable to work or is otherwise absent for medical reasons can be a payroll practice that does not constitute an ERISA covered plan. Again, use of a trust or payment of benefits through insurance will not fall within the safe harbor. Next, the payroll practice safe harbor is only available for programs that make payments to current employees while absent from work, not for programs that allow former employees to receive disability benefits even for a limited period of time. Many disability plans fall outside of the safe harbor because they can cover a terminated employee, even for a very short notice or transition period.

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