

Compliance Alert!

Are Your Voluntary Benefits Creating Compliance Exposure?

Voluntary benefits can expand employee choice without adding significant cost. Recent lawsuits are a reminder to review these programs to ensure fair value and avoid unexpected compliance risk.

What are voluntary benefits?

Voluntary benefits are optional insurance or service programs that employees choose and pay for, typically through payroll deductions.

Some popular voluntary benefits include:

- Accident insurance
- Hospital indemnity insurance
- Critical illness insurance
- Pet insurance
- Legal services plans

Voluntary benefits allow employers to expand employee benefit choices without adding significant cost, while giving employees access to additional coverage at group rates.

Why are Voluntary Benefits under scrutiny?

Voluntary benefits are under increased scrutiny after several lawsuits alleged that employees paid premiums that were too high, while brokers, consultants, or others may have received compensation tied to those plans. The central question is whether these programs were truly optional employee-paid benefits, or whether the employer became so involved that the plans may now be viewed as employer-sponsored benefits.

What are the allegations related to these lawsuits?

The lawsuits claim that some voluntary benefit plans may have charged employees premiums that were too high for the value provided. They also allege that brokers, consultants, or others may have received compensation tied to those plans.

When can voluntary benefits create added compliance responsibilities?

One reason voluntary benefits are attractive to employers is that they can often be offered with less

paperwork and less ongoing administration. The risk increases when the employer becomes too involved in selecting, promoting, or managing the plan. At that point, added responsibilities may apply, including reviewing vendor practices, monitoring pricing, and avoiding conflicts of interest.

Why This Matters: Voluntary benefits are appealing because they usually require less administration than employer-sponsored plans. That advantage can be lost if the employer becomes too involved, creating added responsibilities such as vendor oversight and pricing review.

What are some next steps recommended for employers?

Consider the following steps:

Confirm the plan is truly voluntary

Make sure employees pay the full cost, the employer makes no contribution, involvement stays limited, and the organization receives no compensation.

Review broker and vendor compensation

Confirm premiums are reasonable, the value is clear, and broker compensation is transparent.

Assign clear oversight

Identify who in your organization is responsible for vendor review, employee questions, and periodic plan check-ins.

Clean up employee communications

Use neutral language and avoid wording that sounds like the company is recommending or endorsing the benefit.

Keep written records

Document vendor reviews, pricing discussions, employee communications, and key decisions.

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IMPORTANT NOTE: This Compliance Alert is provided for informational purposes only. While we hope you find it helpful, it does not constitute legal advice and is not a substitute for advice from your attorney. We strongly recommend consulting legal counsel regarding your organization's specific benefit arrangements.