Consumer Guide

Options for Claims Related to Employee Benefit Plans

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INTRODUCTION

The purpose of this Consumer Guide is to provide general information to members of the public on employee benefit plans and options for claims and complaints resolution. The guide also provides clarity on the insurance companies' role in various types of plans.

BACKGROUND INFORMATION

Plans can be provided by an employer or an insurance company. Section 5 of the *Financial Institutions Act* ("FIA") *Insurer Exemption Regulation* clarifies that employers offering plans are exempt from a requirement to have an insurance business authorization, provided certain disclosure conditions are met. Employers are required to disclose to their employees in writing that their plans are not insured by an insurance company regulated under the FIA and the employers are exempt from the regulatory requirements of FIA.

This condition is intended to ensure that employees are aware that their plans are not provided by a regulated insurance company and that they can consider obtaining supplemental coverage, if needed.

WHAT ARE THE TYPES OF EMPLOYEE BENEFIT PLANS?

1. Benefits Provided by an Employer

Under plans provided by an employer, the employer self-funds the plans. In other words, the employer assumes the risk and is responsible for the funds needed to pay eligible benefits or claims. Employers can hire a third party, such as an authorized insurance company, to provide administrative services. Employers may set up a trust to help fund the plan, providing certain health and welfare benefits as agreed to with its employees.

In fully self-managed plans, the employer funds the plan and manages and pays out claims.

In partially self-managed plans, the employer funds the plan but contracts out administration of the benefits, such as claims adjusting, to an insurance company. These plans are often referred to as Administrative Services Only ("ASO") Plans.

2. Benefits Provided by an Insurance Company

Under plans provided by an insurance company, the insurance company assumes the risk associated with the plan. The employer pays the premium for the insurance company to take on the risk. This type of benefit is provided to employees in the form of a group policy, which is a contract between the employer (plan sponsor) and the insurance company (plan provider). These plans are often referred to as fully insured plans. The insurance company adjusts and pays out the claims.

WHAT ARE THE OPTIONS FOR CLAIMS AND COMPLAINTS DISPUTE RESOLUTION?

When an insurance company is involved in a plan, it is important for the employees to clarify with their employer or the insurance company whether their plan is an ASO plan. This will determine the role of the insurance company and the best options to move forward in a complaint and claim dispute.

Processes for Benefits Provided by an Employer – ASO Plans

If the insurance company is the third-party administrator of the plan, it can help address any inquiries related to claims and coverages. However, it is not the decision maker in a claim dispute.

Because these plans are funded by the employer, employees can seek assistance directly from the employer/HR department or their union if they disagree with claim decisions. If employees need further assistance with employee benefits disputes, they can seek legal advice.

Process for Benefits Provided by an Insurance Company

If the insurance company is the provider of the plan, employees can follow the complaint resolution process published on the insurance company's website to raise their concerns. Generally, that process includes the following steps:

1. Contact the representative of the insurance company;
2. Contact the senior management of the insurance company, or its internal Ombuds Office, if the matter has not been previously addressed by the representative; and
3. Contact the OmbudService for Life and Health Insurance for a third-party review, if the matter has not been previously addressed by the insurance company.

Employees could also seek assistance from their employer, as the group policy contract is between the employer and the insurance company.

ADDITIONAL INFORMATION

Employees may come across hybrid plans where the employer and the insurance company share the risk associated with the plans. For example, the employer funds the health and dental portion, and the insurance company funds the long-term disability portion of the plans.

In these cases, the employees can still clarify if the claimed portion is provided by the employer or the insurance company and consider the above options accordingly.

HOW DO I COMPLAIN TO BC FINANCIAL SERVICES AUTHORITY ("BCFSA")?

BCFSA expects insurance companies to manage claims and complaints diligently, timely, and fairly, whether they are in the role of an administrator or an underwriter.

Claim disputes are civil matters, and generally BCFSA is not able to mediate on a consumer's behalf or overturn a decision. However, BCFSA welcomes the public's complaints as they can help identify systemic issues in the insurance marketplace and opportunities for regulatory intervention to ensure consumers are treated fairly.

CONTACT

If you have any questions about this Consumer Guide, please contact insurance@bcfsa.ca.