

CONVERTING INSURANCE COVERAGE AFTER TERMINATION OF EMPLOYMENT

Employers need to communicate with employees and mitigate possible damages

Benefits terminate with employment

When employment terminates, so do the employee benefits. At that time, employees have the option of converting some of their benefits to individual policies. If they do so within a specific time period, they will not be required to provide medical evidence.

The employer's responsibility

Employers can terminate an employee with or without cause. If the employer terminates someone without cause, they are required to provide either reasonable notice or pay in lieu of notice. Sometimes an employee will contest the reasonable notice and initiate a wrongful dismissal suit, which can put the date benefits should terminate in question.

Standards for reasonable notice vary from province to province. Regardless of location, however, if an employee wins a wrongful dismissal case, the law will find that the employee should be put in the same position that he or she would have been in if reasonable notice had been given. This means that benefits would have continued until the end of that notice period.

The employer's liability

The real problem occurs if an employee becomes disabled or even dies before the end of the reasonable notice period. If benefits were terminated by the employer, the insurer will deny the claim. The result is that the employer would be liable for the claim if proper notice was not given.

The employee's responsibility

Not all of the onus is on the employer. While the employer should provide benefits during the notice period, the employee is also under a duty to mitigate his or her damages. A court may find that the employer cannot be held liable for what the court calls "avoidable losses." If you offer a conversion package, and the employee declines it, the court may decide in the employer's favour.

To prevent potential liability, it is vital that you—the employer—give each terminated employee a letter advising him or her of their options to convert their coverage to an individual policy. Furthermore, it is important that the employee sign an "Acknowledgement of Conversion Privilege" form, and you keep this in your files.

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We provide dedicated client support, customization and flexibility to meet all of your company's benefits needs. And we make **solid group plans simple.**



Conversion package

It is clear that to protect everyone involved, employers should provide all employees with a termination package that describes their options when they lose their benefits.

This package should identify the benefits that are convertible, the process to convert these benefits, and the necessary forms. For benefits that are not convertible, other available options should be offered.

While this does not guarantee that as an employer, you will not be found liable in a wrongful dismissal suit, it may help mitigate possible losses. Of course, the best possible involuntary termination is one that provides either proper notice or severance in lieu of notice.

Benefits that may be converted

The following are benefits that may be converted to individual plans.

Life insurance

Most insurers will permit an employee to convert life insurance coverage to an individual policy within 31 days of employment termination. Typically the insurer puts a maximum on the amount available for conversion - \$200,000 is common.

This can be completed without the submission of medical evidence, and simply requires the employee to confirm that he or she wants to convert all, or part, of the coverage in place while employed.

Accidental death and disablement (AD&D)

AD&D coverage can be converted to an individual policy. The conversion can be completed without the submission of medical evidence, and simply requires that the employee confirms intention to convert all, or part, of the coverage in place while you were employed.

Disability

Not many insurers permit conversion of disability insurance. However, there are personal disability options. Some policies can be issued without medical information, while others require the submission of evidence of good health information.

Extended health and dental

Many group insurers offer individual extended health and dental coverage that is similar to coverage while an employee. If an employee converts from an insurer's existing extended health and/or dental plan, the requirement for evidence of good health is waived, and the contract will not contain a pre-existing condition limitation.

Note that converting plans does not assume that the employee will receive the same coverage they had with the employer's group plan. Employees may have a few choices of coverage, but rarely will they match the employer's plan.

Timing

Converting to an individual plan is time sensitive. Employees have 31 days to convert life insurance, AD&D, and disability benefits and 60 days to convert extended health and dental coverage. If the employee does not meet these timelines, he/she will need to provide medical evidence for each benefit and risk being declined coverage and will not benefit from some plan coverage available to them under the conversion plans.

We are here to help

Employee letters

We can assist employers in drafting the letter advising the employees of their option to convert coverage.

Conversion applications

We can work directly with the terminating employee to apply for coverage. This way they are able to meet the tight deadlines for application.

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