

Actively-at-Work

In General

The actively-at-work definition requires that the participant perform most of the duties but on a less than full-time basis. A forklift operator must do a forklift job-at least on a half time basis, e.g.

Employee is not restricted to a *nine to five* regular salaried person, e.g. A director doing director's work on a half-time basis could be an eligible employee.

The general practice is to consider that a participant's coverage commences 12:01 a.m. on the effective date, provided:

- Participant has fully completed the last scheduled work day.
- No disability existed at 12:01 a.m.
- Participant was physically able to work at that time.

Any disability commencing on or after 12:01 a.m. is covered. For purposes of determining the effective date, nonworking days such as Saturdays, Sundays, holidays and regularly schedules vacation days, exclusive of leaves of absence and layoffs, are considered as *actively-at-work* days.

Relevant Court Decisions

1. Participant's eligibility date was June 1. On June 1, prior to going to work, he went to his physician for a routine examination. On his way home he had an automobile accident. Court held he was not covered because of the actively-at-work provision.
2. Participant became eligible for the plan on June 1, a Saturday. Participant worked on Friday and was hospitalized over the weekend. Was he covered? The court held that he was covered since he did work on Friday and had no opportunity to work on Saturday.
3. Plan had a probationary period of three months of employment. Dates were these:
 - Hired April 20
 - Accident July 19 (he had worked all day)Court held he was eligible on July 19 and therefore covered.
4. Participant, prior to going on vacation, told Employer A that he would not be back to work if he found other employment while on vacation. While on vacation, participant went to work for Employer B. He did not elect to continue coverage under Employer A. Employer A carried him as an active participant through his vacation. While on his vacation, and working for

- Employer B, participant had an accident. Court held that he was covered under neither plan.
5. Insurer took over an ongoing health care plan. Participant was not actively-at-work because he was on disability from the old plan. Participant never returned to work. Court held Participant could not be covered under the new plan.
 6. Participant, while home recovering from a heart attack, attempted to deal with client affairs by telephone. Court held that this activity failed the full-time-at-work plan requirement. The mere passive use of name and reputation does not qualify as work.
 7. When policy was switched, Participant was on leave for an extended illness. He never returned to full time work. As a result, he was never covered.
 8. Participant spent less than 10% of his time in the service of a farm implement dealer's showroom; most of the time he was hospitalized or at home recovering from carrier. The court held that this would cause him to fail the plan's actively-at-work requirement.
 9. An attorney, carried on his nearly regular full-time activities while hospitalized. Court held that the attorney could be deemed a full-time employee meeting the actively-at-work requirement in such circumstances.
 10. An attorney was suffering from cancer. He did, however, come to the office several times each week to pick up mail and work which he took home. This activity did not qualify him as actively-at-work; the court found his work to be neither full time nor substantive.
 11. Participant was business manager of an automobile agency; he had a heart attack. He maintained regular contact with the employer through the employees and came to work on a part-time basis. Court held he was validly covered.
 12. Participant was hurt prior to issuance of the plan and when the plan went into effect, he was out on a disability leave. Even so, he sent in his enrollment card which was duly processed. Shortly after the effective date, but before returning to work, he had a claim. Court said such claim was properly deniable. Acceptance and processing of the enrollment papers did not constitute a waiver on part of the plan of the actively-at-work provision.
 13. Participant was not actively-at-work when employer switched carriers. Participant was not to be covered under the new plan.

14. Participant was not actively-at-work when plan went into effect as he was out on a labor strike. While out on strike, he had an accident and sought plan benefits. Court held that plan was not liable for benefits because of its clearly worded actively-at-work provision.
15. Participant was on sick leave when his group plan went into effect. Participant had an accident prior to returning to work on an actively-at-work basis. Such accident was not covered because of the plan's actively-at-work provision.
16. Participant was on leave of absence from his employer and made his contributions as an active employee. The employer treated Participant as an active employee. The employer changed plans with the new carrier not being told that Participant was on leave and not actively-at-work. The Court held the plan to be liable because of its continuing to carry Participant as an active participant even though it clearly was in violation of the plan provisions.
17. State plan denied a claim on a state legislator because of his failure to meet the actively-at-work requirement of the plan. The court held in this instance that, by definition, a legislator became a full-time employee the moment that he was sworn into office.
18. Plan had standard language as to place of work being *employer's business establishment or one to which he is required to travel*. Participant did work in the hospital and at home during an illness. Participant was an officer of the employer. Did this work constitute actively-at-work? The court held that it did not and the coverage would not be allowed.
19. Participant, a dental assistant, arrived for work on the day she was to be eligible for coverage. That same day, she fell ill and went to see a physician. Did this constitute actively-at-work? The court said yes.
20. Participant was out of work temporarily because his plant was shut down for annual inventory. During this period, Participant had a claim. Plan had no automatic extension period; plan required new participants to be actively-at-work when first eligible. Since Participant was not actively-at-work when first eligible due to plant shut down, benefit was denied. As a result, the beneficiary sued claiming that the expression *actively-at-work* was ambiguous and should be construed against the plan.
21. The insurer denied coverage because the Participant was on short-term leave rather than actively-at-work; the Plan had a right to deny coverage for this reason.
22. Participant, an employee, was ill and was continued on her employer's payroll under the sick leave and accrued vacation rules. The employer viewed her as

an employee and carried her as a plan participant. Insurer took over the plan as a rewrite and denied her claims under the actively-at-work provision. Court held for the plan that the employer viewed her as an employee did not overcome the clear fact that by the plan language, she was not an actively-at-work employee.

23. Participant suffered a massive stroke and was out on disability. While so disabled, the plan was rewritten and Participant was denied eligibility under the actively-at-work provision. The court held for the plan.
24. Where the Participant was on unpaid apprenticeship, such did not constitute being actively-at-work.
25. Participant was out on temporary disability when his benefits were to go into effect. Was he eligible for such benefits? The court said that Participant failed the actively-at-work requirement and was therefore not eligible.