Basics of Employee Benefits Administration—Day 2

Ron Krupa, CEBS, CEBS-Compliant
Benefits Consultant
WTW
Bradenton, Florida

International Foundation OF EMPLOYEE BENEFIT PLANS

Course Overview—Day Two

- **Review of day one**
  - The Foundation of Employee Benefits
  - The Framework of Health and Welfare Plans
- **Day two**
  - The Framework of Retirement Plans
  - Wellness and Well-Being
  - Current Events
  - Case Study
  - Evaluations
  - Resources

211

Framework: Retirement

The Practical Application of Retirement Benefits in the Workplace

212

Retirement Savings Plans

213

Types of Retirement Savings Plans

- Defined Benefit Plans
- Individual Retirement Arrangements (IRAs)
- Roth IRAs
- SEP Plans (Simplified Employee Pension)
- SIMPLE IRA Plans (Savings Incentive Match Plans for Employees)
- 401(k) / 403(b) / 401(a) / 457 Plans (Defined Contribution Plans)
- Pooled Employer Plan
- SARSEP Plans (Salary Reduction Simplified Employee Pension)
- Payroll Deduction IRAs
- Profit-Sharing Plans
- Money Purchase Plans
- Employee Stock Ownership Plans (ESOPs)
- Governmental Plans

214

Defined Benefit Plans

- **Defined Benefit Plans**
  - Pension plans where the EMPLOYER takes the risk and funds a guaranteed benefit to employees based on age + service
- **Defined Benefit Plan Limits**
  - The annual amount that can be contributed depends on age, income level, and years in business.
  - Contributions may not exceed the lesser of 100% of the employee's compensation averaged for the highest three consecutive years or $290,000 (in 2026).
  - There is no set maximum defined benefit plan contribution, but the final benefit payment at retirement is limited.
  - The combined deduction limit for contributions to a single-employer DB plan and a single-employer DC plan that have overlapping coverage is the greater of 25% of the compensation otherwise paid or accrued during the taxable year to the beneficiaries defined under the plans.

215

Defined Benefit Plans

- DB Plan must benefit the lesser of
  - 50 employees of the employer or
  - The greater of:
    - 40% of all employees of the employer, or
    - Two employees (or one if there is only one employee)
- Section 412—DB Plan must comply with minimum funding requirements
- Reporting and Disclosure—File Form 5500 (most typical)

216

Defined Benefit Funding Concerns

- Risk management is increasingly being handled by corporate finance departments
- Risks to review

Strategic → Regulatory → Financial and Currency → Governance → Longevity Assumptions

- Prompted by changing regulations and accounting standards with mark-to-market accounting

217

Individual Retirement Accounts

- **Individual/Traditional IRA—**A personal retirement savings account ($7,500 max/year in 2026; $8,600 for those 50+)
- **Individual Roth IRA—**Contributions are Post-Tax; earnings and distributions are tax-free—(same limits as regular IRA)
- **SEP IRA—**Simplified Employee Pension for self-employed individuals (limited to 25% of compensation or $72,000 in 2026, whichever is less)
- **Simple IRA—**For Small Businesses and Self-Employed Individuals (limited to $17,000 in 2026, plus $4,000 in catch-up contributions for 50+)

218

Defined Contribution Plans

- **Defined Contribution Plans**
  - Retirement plans where the EMPLOYEE takes the risk and must invest their own money
  - Employer matching contributions are common but not mandatory
  - Matching can be suspended in times of financial hardship

219

Different Types of DC Plans

- **401(k)—**A 401(k) plan is a **tax-advantaged retirement savings account** for non-government employers
- **403(b)—**A 403(b) plan is a retirement account for **certain employees of public schools and tax-exempt organizations**. Participants include teachers, school administrators, professors, government employees, church employees, nurses, doctors, and librarians.
- **401(a)—**A 401(a) plan is an **employer-sponsored money-purchase retirement plan** that allows dollar- or percentage-based contributions from the employer, the employee or both.
- **457—**A tax-advantaged retirement savings account for **state or local government employees.**

220

Defined Contribution Plan Limits

- 2026 numbers, adjusted for cost of living
- Section 402(g) limits—The employee deferral limit
  - Elective deferrals cannot exceed $24,500 in 2026
  - 401(k) plans, 403(b) plans, 457 plans
  - Participants over age 50 can make a deferral of $32,500 in 2026
- Section 415 limits—The total EE plus ER deferral limit
  - Annual benefit limit for DB Plan $290,000 in 2026
  - Annual contribution limit for DC plan $72,000 in 2026

221

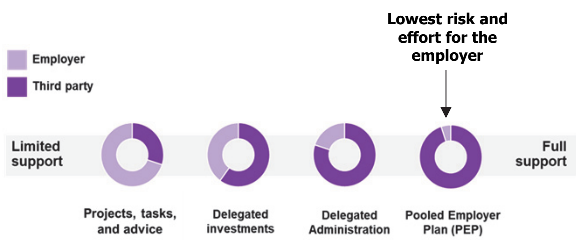
Defined Contribution Limits

	2026	2025	2024	2023	2022
RETIREMENT PLANS					
Annual Compensation Limits—401(a)(17)/404(l)	**360,000**	350,000	345,000	330,000	305,000
Elective Deferrals 401(k)/403(b)—402(g)(1)	**24,500**	23,500	23,000	22,500	20,500
Catch-up Contributions—414(v)(2)(B)(i)	**8,000**	7,500	7,500	7,500	6,500
457 Elective Deferrals—457(e)(15)	**24,500**	23,500	23,000	22,500	20,500
Defined Contribution Limits—415(c)(1)(A)	**72,000**	70,000	69,000	66,000	61,000
Annual Compensation Grandfathered Governmental Plans	**535,000**	520,000	505,000	490,000	450,000

222

Evolving Support Models Create Opportunity

Outsourcing spectrum



What is a PEP?

- Fully outsourced 401(k) approach
- First available in 2021, enabled by Secure Act legislation
- Allows employers to join a plan sponsored by an independent professional fiduciary, rather than manage a standalone plan

How does PEP compare to the current approach?

- Transfers majority of plan management responsibilities from internal teams to the PEP
- Key responsibilities retained are payroll and oversight of the PEP provider
- Continue to control design / company spend
- Providers and investments are selected and managed by the PEP
- PEP drives enhancements to participant experience and outcomes

Potential benefits

- Lower resource burden / more strategic focus
- Risk mitigation / more robust governance
- Potentially lower fees for company and participants
- Easier way to keep pace with legislative and market changes
- Fewer vendors to manage
- Better positions for corporate changes (*e.g.*, restructuring, M&A)

Source: www.lifesight.com

223

Other Retirement Plans

- **SARSEP—**Salary Reduction Simplified Employee Pension Plan—A retirement plan for small businesses, established before 1997, that allows employees to make pre-tax salary reduction contributions into individual retirement accounts (IRAs).
- **Payroll Deduction IRAs—**Employees make automatic contributions to an IRA from payroll deductions.
- **Profit Sharing Plans—**Employers contribute a portion of company profits to employees' retirement accounts, typically based on a set formula.
- **Money Purchase Plans—**Employers must make fixed, mandatory contributions to employees' accounts each year, based on a set percentage of compensation.
- **Employee Stock Ownership Plans—**Gives workers ownership interest in their company through employer-contributed shares of stock.
- **Governmental Plans—**Federal Employees Retirement System (FERS), Thrift Savings Plan, Social Security, Civil Service Retirement System.

224

Minimum Participation Rules

- Minimum Participation—Section 410(a)
  - Age and Service cannot extend beyond the later of:
    - Date employee attains age 21
    - Date employee completes one year of service
  - Participation in the plan begins no later than the earlier of:
    - First day of the first plan year beginning after the date employee satisfied age and service
    - Date six months after the date employee satisfied age and service

225

IRS Qualification

- What does it mean to have favorable IRS qualification status?
  - Contributions **can be deductible** for a plan sponsor when made if within allowable IRS limits
  - Distributions to participants **can receive favorable tax treatment** if current IRS rules are followed
  - Earnings on plan assets **are not taxable** to the employer if proper rules are followed

226

Follow the Plan Documents

- Operate in accordance with plan documents
  - Who benefits under your plan?
  - What contributions or benefits are provided?
  - Even if terms of plan document are not what you intended, you must still follow the plan document
- Amendments cannot reduce any benefits accrued before the date of the amendment

227

Common Retirement Plan Mistakes

- Failure to timely amend and distribute the plan document, summary plan description, and summary of material modification for changes in the law
- Failure to timely implement employee contribution changes
- Failure to follow the plan's definition of and limits on compensation for contribution purposes
- Failure to enroll eligible employees and/or to exclude ineligible employees
- Failure to meet the legally-required minimum distribution provisions in the plan

228

Common Retirement Plan Mistakes *(continued)*

- Failure to follow in-service distribution provisions in the plan
- Failure to use correct distribution forms, make timely distributions and file correct tax reporting on distributions
- Failure to follow the plan’s vesting schedule
- Failure to retain records and maintain internal controls regarding administration of the plan
- Failure to follow the terms of a qualified domestic relations order (QDRO)
- Exceeding the legal maximums on contributions and benefits under the plan

229

Non-Discrimination Testing

- If it's a 401(k) plan, does it comply with Section 401(k)?
  - Must satisfy Actual Deferral Percentage (ADP) test (unless an employer makes a safe harbor contribution)
  - Contributions can only be distributed at specific times: Attainment of age 59-1/2, death, disability, termination, hardship
- Nondiscrimination testing
  - Actual Contribution Percentage (ACP) test
  - Employee and matching contributions for Highly-Compensated Employee (HCE) must be proportional to non-HCE

230

Safe Harbor 401(k) Plans

From IRS website

- A safe harbor 401(k) plan is similar to a traditional 401(k) plan
- Contributions must be fully vested immediately
- Nondiscrimination testing does not apply
- Immediate participation
- Predetermined contribution and matching schedule
- Safe harbor 401(k) plans that do not provide any additional contributions in a year are exempted from the top-heavy rules of section 416 of the Internal Revenue Code.
- Employers sponsoring safe harbor 401(k) plans must satisfy certain notice requirements.
- In order to satisfy the content requirement, the notice must describe the safe harbor method in use, how eligible employees make elections, any other plans involved, etc.

231

Compensation and Top-Heavy Limits

- Section 401(a)(17)
  - Compensation that can be considered $360,000 in 2026
- Section 416 Top-Heavy
  - If 60% of accrued benefits or account balances are for "key employees"
  - Key employee
    - An officer in the prior year;
    - A 5% (or greater) shareholder in the current or prior year;
    - An employee paid $160,000 or more in the prior year; and,
    - An employee whose salary is in the top 20% of all employees.
    - 1% owner or Officer with over $235,000 in compensation
  - If Top-Heavy, may have to make adjustments to minimum vesting and contributions or benefits

232

Vesting

- Vesting
  - Must be defined in plan document
  - Common vesting schedules:
    - 100% upon participation
    - 100% after three or five years
    - 20% per year for five years
  - 100% vested upon attainment of Normal Retirement Age or upon plan termination

233

Distributions

- Cannot force distributions prior to participant attaining Normal Retirement Age or age 62
  - Unless account balance is $7,000 or less in which case plan needs participant consent
  - For balances under $1,000 employer can cash out the plan and send the participant a check
- Option for direct rollover to another plan
- Plan must satisfy non-discrimination requirements

234

Required Minimum Distributions

- Required minimum distributions
  - In general, distributions must begin by April 1 of the calendar year following:
    - Age 73 starting on 1/1/23 (if age 72 attained after 12/31/22)
    - Age 74 starting on 1/1/30 (if age 73 attained after 12/31/29)
    - Age 75 starting on 1/1/33 (if age 74 attained after 12/31/32)

235

Options for Distributions

Single Life Annuity	• Provides monthly payments to you as long as you live
Joint and Survivor Annuity	• Provides monthly payments to you while you and the person with whom you chose to share your annuity are alive
Others	• Level Payment Annuity • Increasing Payment Annuity

236

Participation Rules

- Section 410(b) dictates who the plan must cover
  - **Percentage Test—**Plan benefits at least 70% of non-HCEs
  - **Ratio Test—**Percent of non-HCE is at least 70% of percent of HCEs
  - **Average Benefit Percentage Test—**Cannot discriminate in favor of HCEs and average benefit percentage of non-HCEs must be at least 70% of average benefit percentage of HCEs
  - **Exceptions—**Exceptions for collectively bargained and non-resident aliens receiving no U.S. compensation

237

SECURE 2.0

- SECURE 2.0: Securing a Strong Retirement Act of 2022
  - Builds on SECURE and provides additional legislative updates for workers and employers
- Key insights:
  - Provisions of the SECURE 2.0 Act of 2022 increased the starting age at which investors must start taking required minimum distributions (RMDs).
  - The new law offers incentives to boost retirement savings, including increasing catch-up contribution amounts.
  - Other provisions put a greater emphasis on Roth contributions to retirement accounts.
  - The Act also provides easier access to retirement savings.

Source: https://www.troweprice.com/content/dam/iinvestor/resources/insights/pdfs/what-investors-need-to-know-about-secure-20-provisions.pdf

238

SECURE 2.0

- **Matching contributions**
  - Employers may now permit employees to elect Roth matching contributions
  - Employees must be 100% vested to take advantage of this
- **Student Loans**
  - Employers may make retirement plan matching contributions for those who make "qualified student loan payments" (and who do not contribute to the retirement account)
- Many other features including 529 plan conversions, some additional penalty free distributions, emergency funds
- National Lost and Found Database for Retirement Accounts

239

SECURE 2.0—Updates for 2026

- Increased **IRA** catch up contributions (age 50+):
  - $1,000 catch up contribution will be indexed to inflation starting in 2024
  - For 2026, the catch-up contribution limit is $1,100
- Increased **401(k)** catch-up contributions (age 50+):
  - Standard catch-up for age 50+ in 2026: **$8,000**
  - Super Catch-Up for ages 60-63: Greater of **$10,000** or 50% more of the regular catch-up amount indexed for inflation.
  - For 2026, the **"Super Catch-up" for those ages 60-63** is an additional $11,250 (if plan allows), for a total of **$35,750**.
- Increased starting age for Required Minimum Distributions (RMD)
  - The starting age for RMDs was extended from age 72 to 73 for individuals who turn 72 on or after January 1, 2023. In 2033, this age will change again to 75.

240

SECURE 2.0—Updates for 2026

- **Roth Mandate:** If you earned over $150,000 in W-2 wages from an employer in the previous year (2025 wages for 2026 contributions), your catch-up contributions *must* be made to a Roth 401(k) account.
- **Plan Requirement:** If your employer doesn't offer a Roth 401(k), you won't be able to make catch-up contributions at all.

241

401(k) Major Issues

- Market conditions have heightened retirement concerns on the part of both plan participants and plan sponsors
- Participant excess fee litigation
- Many participants believe that they will need to work longer and retire later
- Plan automation statistics continue to climb
  - Plans are increasingly using auto-enrollment, auto deferral increase
  - 3% is the most common default deferral rate

242

401(k) Major Issues *(continued)*

- Hardship withdrawals and loans are on the rise
- Investment solutions are varied
- Participant uncertainty still at the forefront
- Educational concerns persist—15%-18% savings per year is the new mantra for entry-level Millennials
- Fiduciaries have a number of strategies available to manage 401(k) plan risk, generally focusing on service providers, participant experience and governance procedures.
- Managing vendor services and fees is a top area of concern, though fees do not always correlate with service.

243

401(k) Major Issues *(continued)*

- Investment fund offerings must be diverse and continually monitored for suitability, and employee plan participation and satisfaction with benefits should be analyzed for continual improvements.
- Excessive loans, hardship distribution requests and changes in employee contributions can reflect underlying risk and signal the need for change.
- Fiduciaries must also attend to compliance with plan governance, due diligence, sound decision making and claims review procedures.
- Market conditions have heightened retirement concerns on the part of both plan participants and plan sponsors

244

401(k) Automatic Enrollment

- Types of Automatic Enrollment
  1. Basic Automatic Enrollment
     - Employees automatically enrolled unless they elect otherwise
     - Plan document specifies contribution percentage
     - Employees can elect to not contribute or change percentage
  2. Eligible Automatic Contribution Arrangement (EACA)
     - Uniformly applies plan's default percentage to all employees after giving them required notice
     - May allow employees to withdraw contributions, including earnings, within 90 days of the date of the first automatic contribution
  3. Qualified Automatic Contribution Arrangement (QACA)
     - Uniformly applies plan's default percentage to all employees after giving them required notice
     - Meets additional safe harbor provisions that avoid additional testing requirements
     - Requires employer contributions

245

Class Discussion

Why aren't people saving? → Why aren't people saving enough? → Why don't people have enough for their retirement?

What can or should plan sponsors do about any of this?

246

Retirement Plan Risk

- Mitigate the risk of fraud through strong internal controls
- Warning signs could include:
  - Participant statements are late
  - Participants complain that account balances are not accurate
  - Employees eligible for a distribution wait a long time to receive their funds
  - Payroll deductions do not appear in the employee accounts in a timely fashion
  - Large number of hardship withdrawal requests from a single location

247

Common Retirement Plan Administrative Errors

DC Plan Mistakes

- Not funding timely
- Incorrect match calculations
- Not starting loan deductions on time (or at all)

DB Plan Mistakes

- Incorrect pension calculations
- Inadequate benefit funding

248

IRS Employee Plans Compliance Resolution System (EPCRS)

- Three ways to correct mistakes

Self-Correction Program (SCP)	Voluntary Correction Program (VCP)	Audit Closing Agreement Program (Audit CAP)
Correct certain plan failures without notifying IRS	Any time before an audit, pay a fee and receive IRS approval for correcting plan failures	Pay a sanction and correct a plan failure while plan is under an audit

249

Expanded Self-Correction Program

- Revenue Procedure 2019-19 expanded EPCRS
- Expansion intended to make it easier to fix plan failures including:
  - Resolve certain plan document failures
  - Correction options and possible relief for failures related to plan loans to participants
  - Correcting certain operational failures
- Beginning April 1, 2019, all Voluntary Compliance Program submissions must be done electronically using www.pay.gov website

250

Accountability

- Benefit Plan Committees
  - Specify the basis on which payments are made to and from the plan
  - Assuring that the plan does not act in a way that would constitute a prohibited transaction
  - Assuring that the plan serves the best interests of plan participants and their beneficiaries (including surrounding ourselves with the best vendors)
  - Interpret plan rules that inevitably arise using the background fiduciary standards

251

Core Functions of Retirement Committee

- Oversees qualified and non-qualified retirement plans (DB, DC, pension, 401(k), etc.)
- Manages investment strategy, fund selection and monitoring, advisor oversight
- Focuses on fiduciary duties under ERISA Title I, fee reasonableness, and plan audits
- Handles claims and appeals under retirement plan regulations
- Manages actuarial assumptions (DB) and cybersecurity in plan assets (DC)

252

Retirement Committee Best Practices

- Establishing bylaws
- Getting commitment
  - Fiduciary risk
  - Regulatory risk
  - Commitment
  - Who should be on the committee?
- Start with the fiduciary basics, may want to start every meeting by handing out a printout of ERISA's five fiduciary requirements:
  - The plan must provide an appropriately diversified selection of investment options.
  - The plan's assets must be managed in a prudent manner.
  - The plan's costs must be reasonable.
  - Decisions about investments should follow guidelines specified in the plan document (unless plan provisions don't conform to ERISA specifications).
  - All decisions must be made in the best interests of the plan and its participants.
- While investment practices may occupy a good portion of your meeting, make sure to leave time for discussion of other issues.

253

Class Discussion

Plan Committees

- Who has a retirement committee at work?
- Who has a benefits committee at work?
- How is it structured?

254

Fiduciary Responsibilities and Duties

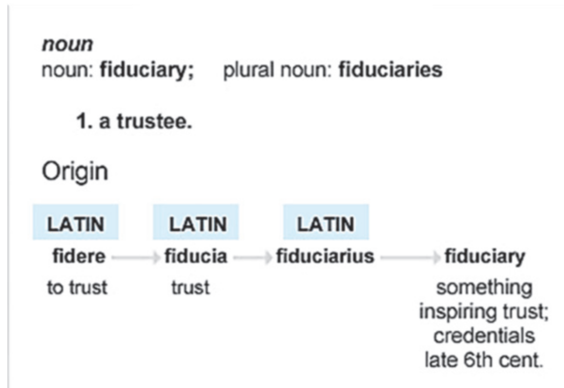
Everyone involved with a benefit plan's operation—Regardless of their own fiduciary status—Should understand the fiduciary obligations required by ERISA and the responsibilities those obligations create for individuals deemed to be plan fiduciaries.

RPA 2
Module 11
Objective 6

255

Fiduciary Responsibilities and Duties

- Who is a fiduciary?
- What are the responsibilities of a fiduciary?



256

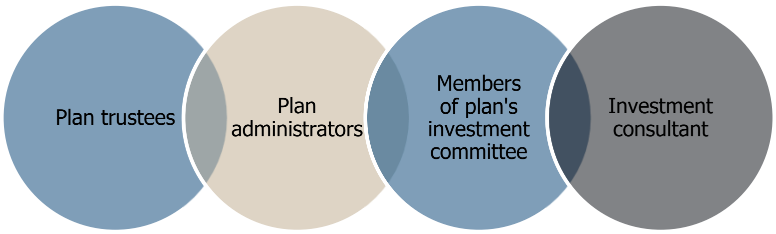
Types of Fiduciaries

- **Named fiduciary**—Specifically named in the written plan document
  - By Title, not by Name
- **Functional fiduciary**—Becomes a fiduciary based on the function he or she performs
- Per ERISA, a person becomes a fiduciary of a plan in which participants direct their own investment choices (*e.g.*, 401(k)) if that person provides advice "for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority to do so."

257

Fiduciary Examples

- Named fiduciaries:



- Functional Fiduciaries
  - A functional fiduciary is any person or entity that exercises authority and management of a retirement or benefit plan, or that has a responsibility to administer the plan.

258

Fiduciary Duties

Five core duties of fiduciaries are:


Act **prudently** (prudent person rule)


Act with **loyalty** to plan participants and their beneficiaries (exclusive benefit rule)


Diversify plan investments (diversification rule)


Act in accordance with plan **documents** and ERISA (plan document rule)


Ensure fees being charged to the plan and plan participants are reasonable (reasonable plan expenses rule)

259

Prudent Person Rule

- Act prudently
  - ERISA 404(a)(1)—" . . . *With the **care, skill, prudence, and diligence** under the circumstances then prevailing that a prudent [person] acting in a like capacity and **familiar with such matters** would use in the conduct of an enterprise of a like character and with like aims . . .* "
  - Whether or not it was the right decision at the time is not necessarily the requirement. (Does not require that every fiduciary decision yield the best result.)
  - "Empty head and a good heart" are not enough.
  - Was the <u>right process</u> in place and followed?

260

Exclusive Benefit Rule

- Act with loyalty to plan participants and their beneficiaries
  - Two parts:
    - Must act <u>solely in the interest</u> of the plan participants and their beneficiaries;
    - Plan assets must be used for <u>paying benefits or reasonable expenses</u>.
- Settlor expenses:
  - A settlor is the entity that establishes a trust by legally transferring control of an asset to a trustee for the benefit of one or more beneficiaries
  - Must be paid by the plan sponsor; in conjunction with the establishment, termination, and design of the plan.
- Fiduciary expenses: Include those direct expenses properly and actually incurred in the performance of a fiduciary's duty to the plan.

261

Diversification Rule

- Diversify plan investments
  - Goal is to **minimize the risk of large losses** unless under the circumstances it would not be prudent to do so.
  - Depends on the **facts and circumstances** of each investment.
  - Emphasizes the "all your eggs in one basket" theory.
  - Examples from your own experience?

262

Question Yourself

- Does it demonstrate good fiduciary responsibility:
  - To buy a diamond ring with pension assets and wear it on the hand of the wife of the President of the Company?
  - To buy gold coins with 100% of a pension plan's assets?
  - To store gold bars representing 50% of plan assets in a credenza file under lock and key in the Union offices?
  - To buy all Company stock with the assets of a pension plan?

263

Plan Document Rule

- Act in accordance with plan documents and ERISA
  - Source of many lawsuits alleging that fiduciaries did not follow the plan documents and the law.
  - Plan documents must be "court of last resort".
  - Easy to have a "disconnect" between plan document and actual practice.

264

Plan Document Rule

- About 90% of retirement plan documents are preapproved master or prototype plans, preferred for their relatively easy administration and generic features.
- They avoid most of the cost of customization, and the six-year restatement cycles and IRS online tools ease the burden and enhance user satisfaction.
- Pre-approved plans are still complex and require attention and updating, and mass-produced forms can include errors. Most also require a degree of modification, especially for required amendments.
- Preapproved plan documents are not available for governmental plans, cash balance and employee stock ownership plans.

265

Reasonable Plan Expenses Rule

- Ensure fees being charged to the plan and plan participants are reasonable
  - Create and follow a process where you determine what services you need for the administration of the plan
  - Will you need accounting services, legal services, recordkeeping, etc.?
  - Electronic delivery or paper delivery?
  - How many investment committee meetings or educational meetings per year?
  - "Shop" the plan administration periodically (doesn't have to be a full RFP)

266

Fee Disclosure Rules

- Service providers are not required to provide a summary of the disclosures, though the DOL provided a sample "guide" as a help that is not mandatory.
- The added requirement to describe the arrangement between the service provider and the payer of indirect compensation.
- Limited relief exists for disclosures for brokerage accounts and similar arrangements
- Clarified that electronic disclosure is permitted.
- Relief from the disclosure requirements for "frozen" 403(b) contracts.
- Plan sponsors are required to terminate a relationship with a service provider who fails or refuses to provide information on request.

267

Fiduciary Risk Mitigation

- Demands and behavioral standards for fiduciaries have increased over the past few years. As a result, the need to manage and mitigate fiduciary risk has risen.
- **Fiduciary risk mitigation processes and practices** protect the organization, individual fiduciaries and plan sponsors from the consequences of a fiduciary breach.
- To lessen or avoid fiduciary risks, sponsors and fiduciaries should seek expert help when appropriate, form a retirement plan committee and write an investment policy statement for the plan. This especially applies to smaller companies that may not have the available resources in-house.
- They should be knowledgeable about the plan's contracts, services, income and expenses, and they must adhere to all requirements stated in the plan document.
- Each should understand whether he or she functions as a fiduciary and is subject to ERISA standards for fiduciary responsibility.

268

Final Fiduciary Rule From DOL
(Published April 8, 2016)

- Summary
  – Final regulation defining who is a "fiduciary" of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (ERISA or the Act) as a result of giving investment advice to a plan or its participants or beneficiaries.
  – The final rule also applies to the definition of a "fiduciary" of a plan (including an individual retirement account (IRA)) under the Internal Revenue Code of 1986 (Code).
  – The final rule treats persons who provide investment advice or recommendations for a fee or other compensation with respect to assets of a plan or IRA as fiduciaries in a wider array of advice relationships.

269

Final Fiduciary Rule From DOL
(Published April 8, 2016)

- Key Takeaways
  - The Fiduciary Rule largely allows employers to continue to provide plan information and educational materials to participants without taking on additional fiduciary responsibility.
  - The Fiduciary Rule treats many common sales practices as fiduciary investment advice, so plan services providers will need to either accept fiduciary responsibility or modify their practices to fit within an exception to fiduciary status.
  - Plan sponsors should expect to see material changes to both the procurement process (*e.g.*, RFPs) and their ongoing relationship with service providers.

270

ERISA 404(c)

- Plan sponsors and other fiduciaries can protect themselves from liability if participants make poor investment decisions
- At a very high level, this means:
  - Plan offers a broad range of investments
  - Plan provides participants an opportunity to exercise control over their account balances
  - Participants exercise independent control (not coerced by a plan fiduciary)
  - Plan provides participants with plan information and its investment options

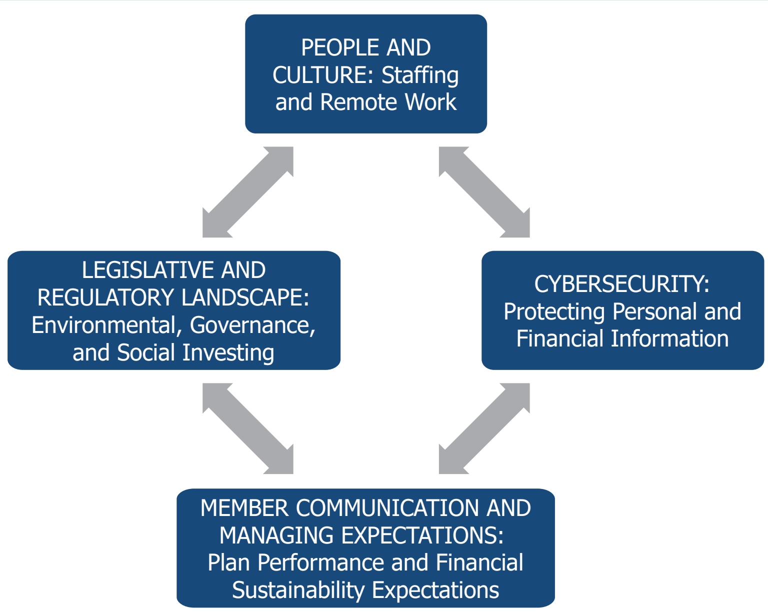
271

Practical Steps to Limit Liability

- Establish and follow a fiduciary process
- Take advantage of ERISA Section 404(c) protection
- Delegate fiduciary responsibilities
- Educate participants
- Follow independence rules carefully
- Establish a high standard of ethical behavior and walk the talk

272

Top Fiduciary Concerns by One Study



Source: COHEN MILSTEIN—Top of Mind Fiduciary Issues for 2023

273

Top 11 Red Flags for a Plan Fiduciary

1. Not having a plan/plan investment committee
2. Not having committee meetings
3. Not keeping minutes of committee meetings
4. Not having an investment policy statement
5. Not removing “bad” funds from your plan menu

274

Top 11 Red Flags for a Plan Fiduciary *(continued)*

6. Not following up timely on recommendations from the plan investment committee
7. Not reviewing service providers periodically for fees and expenses
8. Not following the written investment policy statement
9. Not reviewing periodically the investment policy statement
10. Not making sure that participants get the education they need
11. Not reviewing the plan’s operational and document compliance with the rules and regulations

275

Fiduciary Best Practices

- Review and update your fiduciary liability insurance policies
- Continue to practice prudent procedures
- Hold regular plan fiduciary/committee meetings
- Review, and if necessary, revise your plan's investment policy statement (IPS)
- Monitor carefully performance of investment funds and investment managers
- Review and monitor plan expenses and fees

276

Fiduciary Best Practices

- Consider an audit to ensure compliance with the ERISA 404(c) and qualified default investment alternative (QDIA) requirements
- Conduct a compliance review of your plan documents
- Consider hiring professionals and other service providers to help perform certain fiduciary tasks
- Provide fiduciary education and training to plan fiduciaries
- Ensure administrative processes are following the plan document

Source: Fiduciary Issues, written by Edmund Emerson and Lisa Van Fleet

277

Other Fiduciary Items

- Ensure your plan fiduciaries receive education on the complex fiduciary duty rules of ERISA
- Plan administrative committees should make it part of their usual routine to have periodic education and updating about their fiduciary duties
- If a small businesses owner or other employee serves as plan trustee (a situation we try to discourage), ensure the trustee understands his or her duties under ERISA
- Fiduciaries need to understand and fully appreciate that ERISA liability is personal for each fiduciary

278

Fiduciary Breach Penalties

- Penalties or consequences of a fiduciary breach can be quite serious
  - Fiduciaries may be personally liable for losses
  - Fiduciaries may be subject to civil penalties
  - Fiduciaries may even be subject to criminal prosecution for willful violations
- Fiduciaries are also liable for breaches by a co-fiduciary if he or she participates, enables, or knew of a breach and did not take action to correct the breach
- What are some examples of egregious fiduciary actions?
- What are examples from your own experience?

279

Fiduciary Breach Penalties

- Penalties for Fiduciary Breach
  - Jail time
  - Fines (corporate and personal)
  - Civil penalties
    - $5,000 to $500,000 per occurrence
  - Administrative proceedings
    - $5,000 to $500,000 per occurrence
    - Personally and corporately liable

280

Liabilities

- Pension plan fiduciaries are taking steps to limit legal liability and government actions that could threaten their plans.
- Rising litigation over employer stock in retirement plans and service provider fees, greater pressure by the DOL for reporting, disclosure and participant notifications and participants' dwindling plan accounts.
- In response, plan fiduciaries are focusing on plan costs and investment options, increasing reliance on liability driven investing and focusing on policies regarding employer stock.
- Plan fiduciaries are also scrutinizing plan documents and information released to employees, shifting plan fiduciary functions to committees and intensifying protection through fiduciary liability insurance.

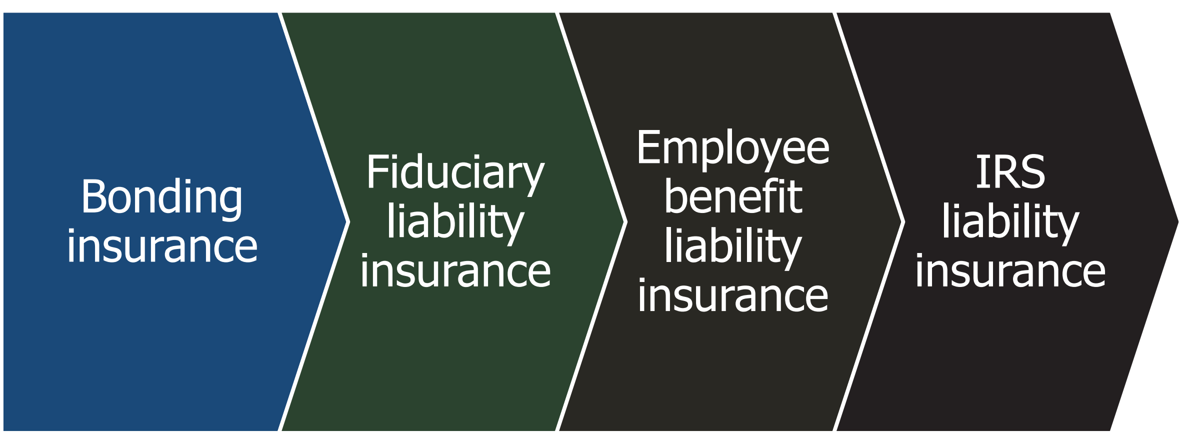
Class Participation Opportunity: What has your employer done recently to reduce potential exposure to fiduciary liability?

281

The Reality of Sponsoring a Plan

- Though most employers sponsor a retirement plan of some sort, managing it is not a top priority
- Plan governance is complex, full of potential hazards and usually involves an administrator, accountant, auditor, investment advisor and others
- A good approach may be to rely on a qualified pension consultant or advisor to oversee governance and all parties involved. Such a specialist should know about plan design and administration, fiduciary and legal matters, ERISA and member service and be able to advise and educate.

Types of Liability Insurance



Fiduciary Liability Insurance

- Compelling need for insurance
- ERISA 410(b)(1) authorizes fiduciaries to purchase insurance with plan assets to cover losses or liability occurring by reason of the act or omission of a fiduciary if such insurance permits recourse by the insurer against the fiduciary in the case of a fiduciary obligation by such fiduciary.

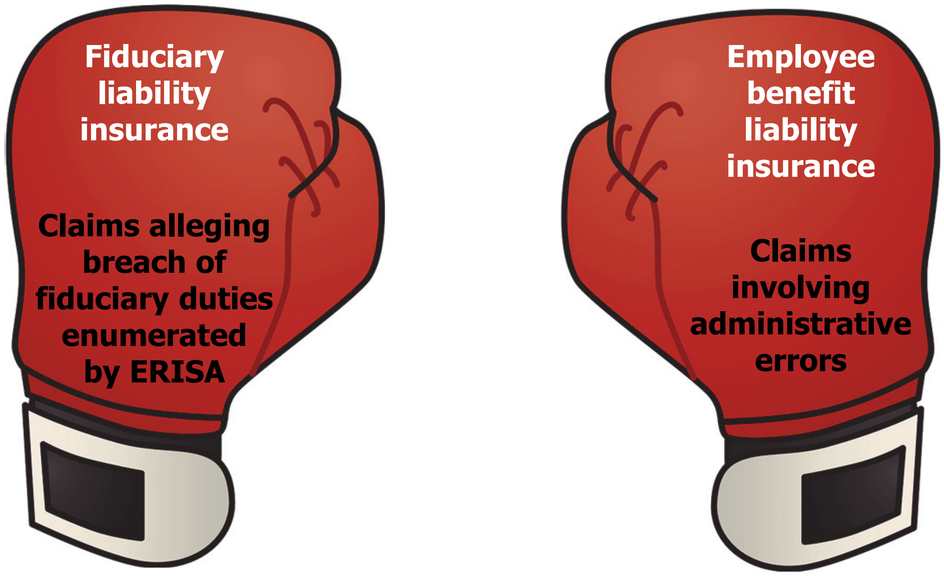
284

Bonding Requirements

- Bonding Requirements
  - Under ERISA, all fiduciaries who handle funds or other plan assets are to be bonded for 10% of the aggregate amount handled;
  - Maximum bond is $500,000; minimum is $1,000. Trustee's responsibility to make sure all fiduciaries are appropriately bonded;
  - Corporate trustees or insurance companies with combined capital and surplus of at least $1 million are not required to be bonded.

285

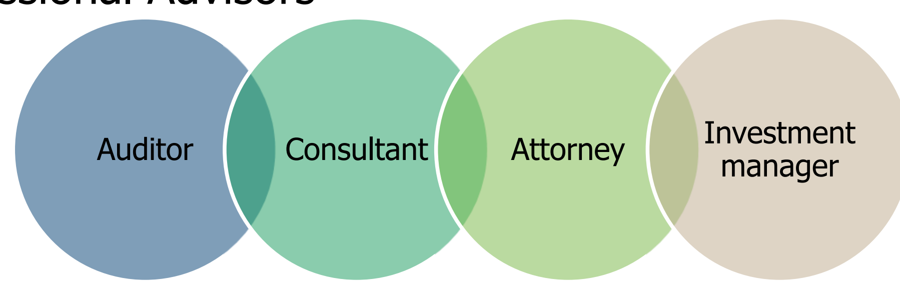
Insurance Differences



286

Conflicts of Interest

- Fiduciaries cannot act where they are in a conflict-of-interest position or where there is the potential for self-dealing
- Means <u>**Independence—An important concept**</u>
- Professional Advisors



287

Fund Advisor Selection

- Where do you find these fund advisors?
- Who is a good professional service provider?
- How can you find out if they are good?
  - Due diligence process
  - RFP process
  - Independent consultant
- The selection and monitoring process
  - Selection procedures
  - Monitoring procedures
  - DOL guidance in the investment management area

288

Claims Procedures

- Claims procedure under ERISA Section 503
  - Adequate notice in writing to any participant or beneficiary whose claim for benefits has been denied, setting forth specific reasons for the denial, written in a manner calculated to be understood by the participant.
  - Afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim.

289

Handling Appeals

- Review of claim denial
  - First step is to determine if the decision is "wrong"
  - Even if it is wrong, it can still be upheld if it is not arbitrary and capricious
  - If wrong but reasonable, the claims administrator must show that the decision was not tainted by self-interest

290

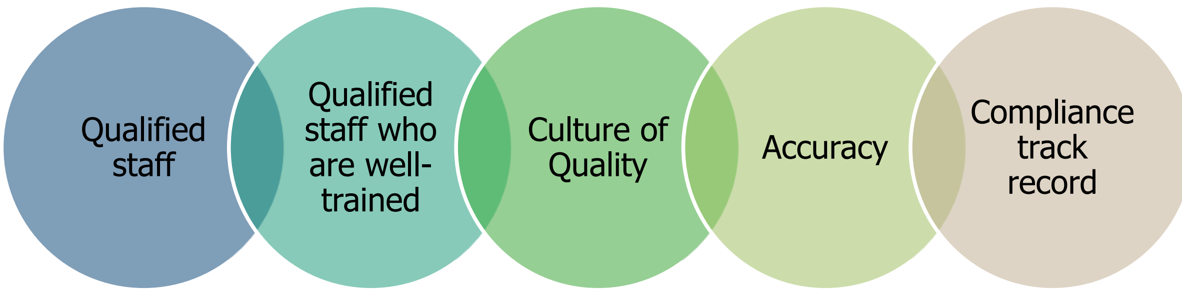
Document. Seriously.

- Three most important words:
  - Document, Document, Document
- Standard items for benefit lawyers to review an initial claim are:
  - Summary plan description
  - The plan itself
  - The letter from the plan denying the claim
  - Any other information or representations concerning the plan's benefits.

291

Recordkeeping

- Someone needs to track all of the transactions in employee benefit plans, especially retirement plans with employee contributions, employer contributions, investment gains and losses, vesting schedules, withdrawals, etc.
- A good record keeper is key to smooth administration
- What should you look for in a good recordkeeping firm?



292

Recordkeeping

- What typical duties are important?
  - Pricing the portfolio accurately
  - Payroll provider's personnel and expertise
  - Handling the events during the year properly

  - Keeping track of employee information
  - Understanding the plan—***Compliance in form***
  - Following a plan's rules—***Compliance in operation***

293

Retirement Plan Reporting and Disclosure Requirements

- Full list available at https://www.irs.gov/pub/irs-pdf/p5411.pdf
- Annual Reports to IRS (samples)
  - Form 5500, Annual Return/Report of Employee Benefit Plan
  - Form 8955-SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits
  - Form 5558, Application for Extension of Time to File Certain Employee Plan Returns

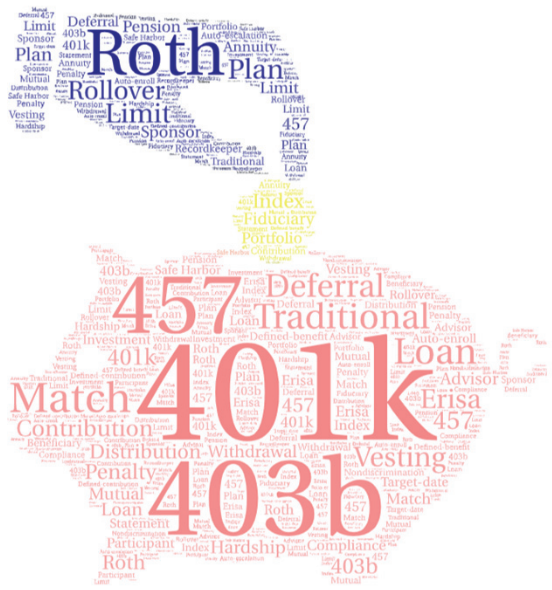
294

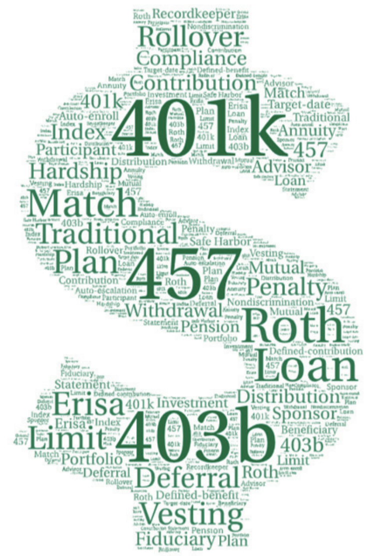
Retirement Plan Reporting and Disclosure Requirements

- Annual Notices to Participants (samples)
  - Individual statement to separated participants with deferred vested retirement benefits
  - Notice of effective opportunity to make or change cash or deferred election
  - 401(k) safe harbor notice

295

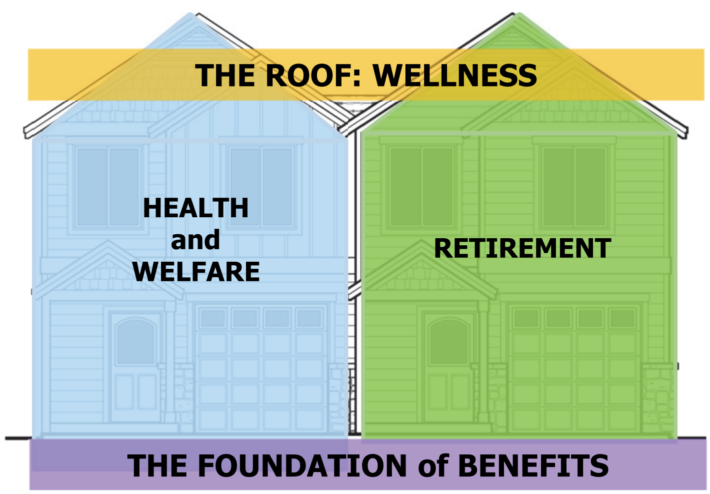
Retirement Recap





296

Framework: A Little of Both



297

ERISA—Electronic Delivery

ERISA's basic requirements for electronic delivery include:

1. When an electronic document is furnished, a notice must be provided to each recipient describing the significance of the document-in other words, simply posting is not enough: Participants must know that there are documents to be reviewed
2. Must take reasonable steps to ensure receipt: Consider using return-receipt or notice of undelivered e-mail features and/or should conduct periodic reviews or surveys to confirm actual receipt by participants
3. Reasonable and appropriate confidentiality safeguards should be used to protect the privacy of personal information related to an individual's accounts and benefits
4. The electronically delivered documents must be prepared and furnished in a manner that is consistent with the style, format and content requirements applicable to the particular document
5. A paper version of the electronic document must be readily available

Source: http://benefitadvisorsnetwork.com/legal-alert/ERISA-electronically-delivered-plan-document

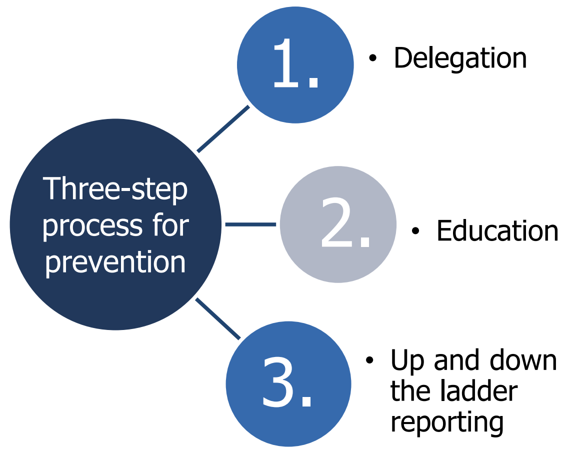
298

Audits

299

Audits (DOL, IRS, Internal)

- The purpose of an audit is to ensure that everyone is doing what they're supposed to be doing
- It's not a matter of IF you will be audited, but WHEN
- Follow this three-step process to minimize potential audit failures



300

DOL Audit Issues

Allocation and delegation of fiduciary authority	MHPAEA	Recordkeeping
Handling of plan assets	Plan expenses	Investments
ERISA 404(c) requirements	Reporting and disclosure	Claims procedures

301

Fraud, Waste and Abuse

- Internal and external controls can help prevent and uncover fraud, waste and abuse
- Voluntary compliance audits, good internal controls, separating duties and a strong culture of honesty and enforcement are excellent starting points to avoid theft

302

Fraud, Waste and Abuse

- What allies does the plan administrator have?
  - Finance department (CFO)
  - Controller's department
  - Outside auditors
  - Internal audit department
  - SAS 70 audits
  - Legal department
  - Tax Department
  - Outside legal resources
  - Dependent Eligibility Audit
  - Whistleblower statutes
  - HR Head
  - ERISA's duties and responsibilities
  - Other Benefits Professionals
  - Other resources

303

OCR Audit: Be Prepared

Boy Scout Motto: Be Prepared (for an audit):

- Determine the "primary contact" and contact them to diligently monitor for the initial Office of Civil Rights (OCR) communication
- Consider an entity-wide communication informing of the potential for an audit, and the potential for phishing and malware attacks under guise of such communications. Instruct all workforce members to notify the Privacy Officer and/or Security Officer immediately (and tell them how to do it) if they receive a communication purporting to come from OCR—Without clicking on attachments and links—So that attachments and links can be timely explored in a secure environment.
- Remember: Covered Entities and Business Associates will have only **14 days to respond** to the initial communication. If the OCR communication does not specify calendar vs. business days, assume the shorter time period and respond accordingly. Failure to respond will not exempt your organization from audit.

304

Audit Compliance

- Discuss with counsel immediately should your organization receive an initial identification notice from OCR. Counsel can assist you in organizing documents and data OCR may request, filling any existing gaps (more on this below), and identifying any potential privilege issues—Which should be asserted with extreme caution and mindfulness of potential consequences, if at all.
- Begin to fill potential compliance gaps <u>now</u>. While for purposes of the audit itself, OCR will likely consider only documentation existing at the time of the notification/request (and while, of course, your organization must be transparent about what existed when), you may have the opportunity to demonstrate best efforts by showing what you did *after* notification to identify and mitigate potential non-compliance.

305

Gather Audit Documentation

- Covered entities: Identify your business associates, verify current contact information, and gather all business associate agreements.
- Identify an audit team who can respond immediately should your organization be identified as a preliminary auditee, and in the long-term should you be selected for audit.
- Get together all documentation OCR is likely to request, including:
  - Privacy Rule (PR), Security Rule (SR), and Breach Notification Rule (BNR) policies and procedures.
  - Documentation of employee training (materials and participation).
  - Documentation of requests for access to PHI, and the organization's response.
  - Logs of unauthorized disclosures of PHI.
  - Results of SR risk analysis, and corrective action taken.
  - Documentation of the organization security management process.
  - Documentation of investigations of potential breaches of unsecured PHI, and breach notification.
  - Documentation of efforts to mitigate harmful effects of privacy breaches and security incidents.
  - Documentation of disciplinary procedures for workforce members that violate the HIPAA Rules.
- Review OCR Phase 1 audit protocols to understand what upcoming audit questions may look like.

306

An Independent Audit Required by ERISA Is Not the Same Thing as a DOL or IRS Audit

- ERISA plans are subject to annual reporting requirements that may include an audit of the plan's financial statements.
- The Independent CPA Audit required by ERISA is the first line of defense against plan operational and demographic errors. An internal audit not a catch-all defense against a formal DOL or IRS audit.
- An auditor will request specific items needed for the audit from the sponsor and an SSAE 16 Type II report from any third-party administrator.
- An Engagement Letter outlines the nature and scope of the audit. The auditor considers the plan's risk management, internal controls and potential for fraud to fully understand the business, transactions and specific risks in financial reporting.
- Plan documents, amendments, summary plan descriptions, agreements and contracts, financial statements, tax filings, reports and previous audits must be reviewed.
- Audit planning team then discusses findings and develops a strategy for the next phase in the audit process.

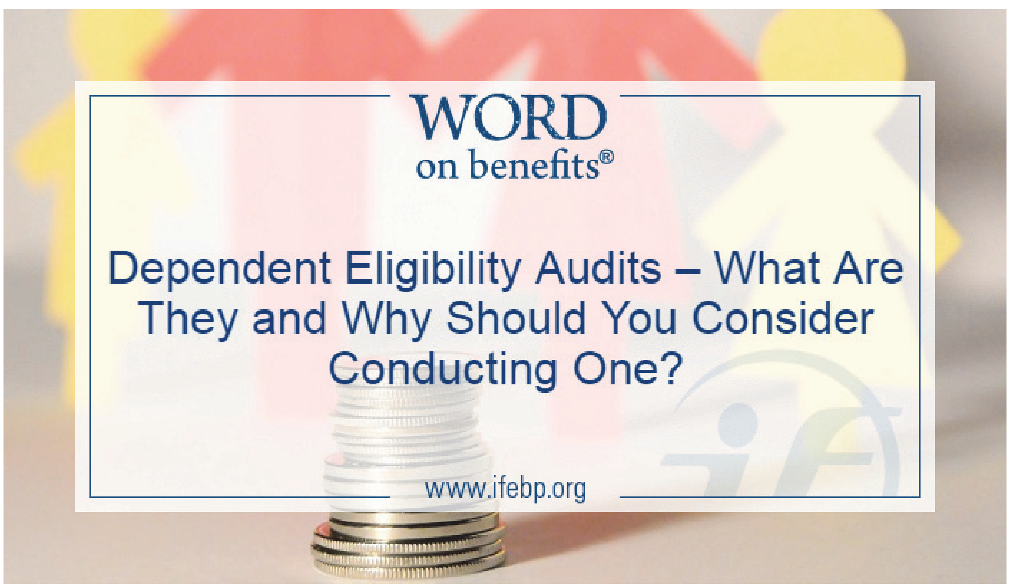
307

IRS Compliance Checks

- A plan review to determine whether recordkeeping and reporting requirements are being met
- Match information from returns filed to resolve errors
- Help educate plan sponsors, administrators and trustees about plan reporting and filing requirements
- Increase voluntary compliance
- A compliance check is **not** an audit

308

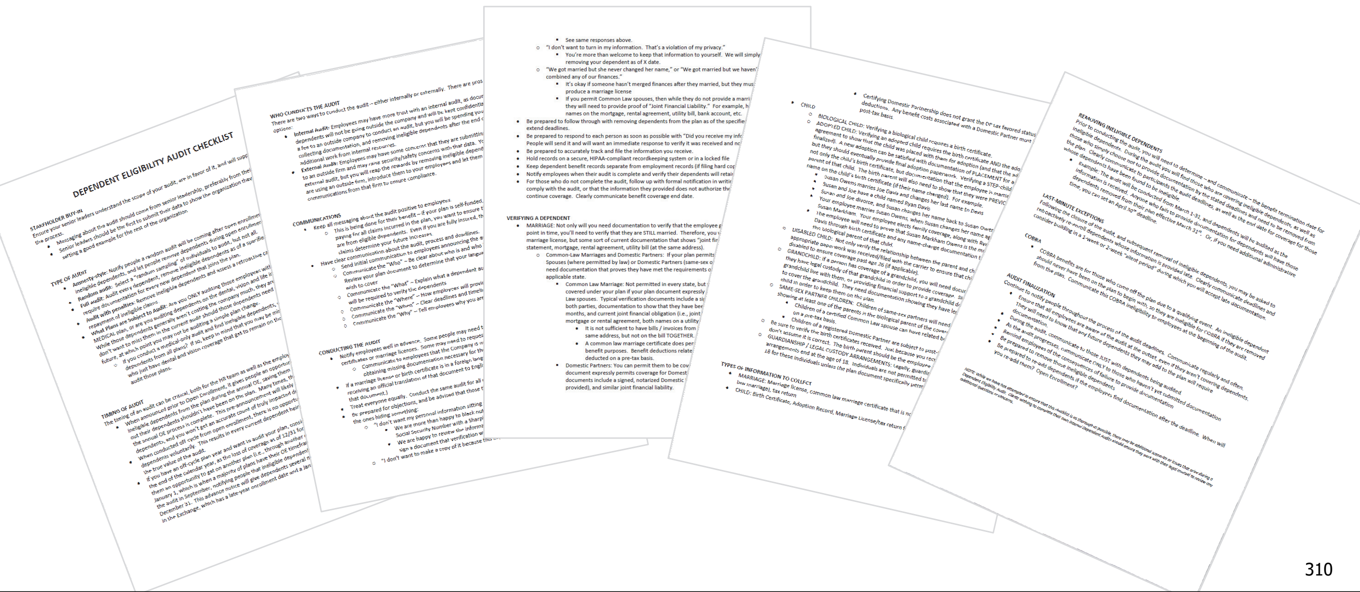
Dependent Eligibility



https://blog.ifebp.org/dependent-eligibility-audits-what-are-they-and-why-should-you-consider-conducting-one/

309

Dependent Eligibility Handout



310

Class Discussion

- What audits have you done?
- Which audit category does it fall into?

311

Cybersecurity Threats

Source: https://www.sprintzeal.com/blog/top-cybersecurity-threats

312

Change Healthcare Cyber Attack

- According to the United Health Group website, Change Healthcare (CHC) has confirmed that on February 21, they experienced a cybersecurity issue. Our understanding is that individual data was not compromised in the cyber attack, so it wasn't a data breach, but a ransomware attack.
- CHC claims to connect 900,000 physicians, 33,000 pharmacies, and 5,500 hospitals with health insurers.
  - When employees and dependents receive care, their providers use CHC networks to confirm services are covered by the insurance program, regardless of the carrier.
  - After care is provided, the provider submits a claim through CHC's networks for validation and payment facilitation.
- There are at least two potential areas to carefully monitor:
  - Disruption and inconvenience to your employees.
  - Unexpected financial outcomes to your health plans.

CHANGE HEALTHCARE
P.O. Box 989728
West Sacramento, CA 95798-9728

To enroll in free credit monitoring services, please visit: www.changecybersupport.com and click the link to register online with IDX.

[redacted]

September 3, 2024

[redacted]

Notice of Data Breach

[redacted]

We are sorry to tell you about a privacy event. This letter is from Change Healthcare ("CHC"). We work with many doctors, health insurance plans, and other health companies to help provide health services or benefits. This event may have involved your data.

What happened?
On February 21, 2024, CHC found activity in our computer system that happened without our permission. We quickly took steps to stop that activity. We began investigating right away and hired a special team to help us. We also called law enforcement. We also turned off CHC's systems to help protect our business customers and their individuals.

On March 7, 2024, we learned a cybercriminal was able to see and take copies of some data in our computer system. This happened between February 17, 2024 and February 20, 2024. We received files that were safe to look at on March 13, 2024.

313

DOL Updates Cybersecurity Guidance

- DOL Updates issued in September 2024
  - Confirmed this applies to all plans covered by ERISA including Health and Welfare and Retirement plans
  - Included updates to:
    - Tips for Hiring a Service Provider: Helps plan sponsors and fiduciaries prudently select a service provider with strong cybersecurity practices and monitor their activities, as ERISA requires.
    - Cybersecurity Program Best Practices: Assists plan fiduciaries and recordkeepers in mitigating risks.
    - Online Security Tips: Offers plan participants who check their online retirement accounts with rules for reducing the risk of fraud and loss.

314

The Ransomware Crisis

After a ransomware incident, the average business experiences a recovery period of **24** days of downtime to resume operations.
Statista

317.6M ransomware attacks in 2023.
Sonic Wall Cyber Threat Report 2024

$5.08M average cost of a ransomware attack in 2025.
IBM Cost of a Data Breach Report 2025

The FBI's Internet Crime Complaint Center received **3,156** complaints in 2024 identified as ransomware, reflecting losses of more than **$12.47M.**
FBI Internet Crime Report 2024

789 publicly disclosed ransomware attacks in 2024, a **25%** increase over 2023, a **26%** increase over 2022 and a **29%** increase over 2021. Blackfog

83% of respondent cybersecurity professionals said that ransomware was the type of cyberattack they were most concerned with.
2023 SonicWall Threat Mindset Survey

Ransomware was involved in **44%** of all breaches in 2024.
2025 Verizon Data Breach Investigations Report

315

Current Cyber Risk Threat Landscape: The Statistics

Global volume of cyberattacks reached an average of **1,984 weekly attacks** per organization in Q2 of 2025, a 21% increase from the same period in 2024.
Check Point Research

During the past 12 months, **34.5%** of polled executives report that their organizations' accounting and financial data were targeted by cyber adversaries.
Deloitte Center for Controllership poll

Phishing operations were a top pathway to compromise in 2023, with **30%** of incidents remediated by X-Force using this technique to gain initial access.
IBM Security X-Force Threat Intelligence Index 2024

Malware has returned to pre-pandemic levels. There were **6.06B** attacks in 2023, a year-over-year increase of **11%**.
Sonic Wall Cyber Threat Report 2024

IoT malware jumped **87%** year over year to a new high of **112.3M**
Sonic Wall Cyber Threat Report 2023

40,289 Common Vulnerabilities and Exposures (CVEs) published in 2024, with more than half given a score indicating high or critical severity.
Arctic Wolf

86% of business leaders and **93%** of cyber leaders believe global geopolitical instability is moderately or very likely to lead to a catastrophic cyber event in the next two years.
World Economic Forum Global Risks Report 2023

Data breach costs remain highest in the U.S., where the average cost of a data breach in 2025 is **$10.22M**, up from $9.36M in 2024. IBM Cost of a Data Breach Report 2025

7.5T intrusion attempts in 2023, **up 20%** from 2022.
Sonic Wall Cyber Threat Report 2024

316

Business Continuity

- Disaster Recovery
  - Ensuring the continuity of your business following a major event (fire, flood, hurricane, pandemic, cyber attack, etc.)
  - Establish a business continuity plan—Similar to leadership succession
- Strategic planning is mission-critical
  - Back-up systems
  - Key files are backed up 24-7
  - Facilities and equipment
  - Key employees
  - Communications
  - Paper-based records

317

Business Continuity

- Never really done with the job—Needs committed resources and periodic review every year as new situations occur and the environment changes.
- Requires regular testing, established priorities and goals, and quick access to the recovery plan.
- Thorough assessment of risks and responses for:
  - Lost data
  - Disabled information technology applications
  - Unusable infrastructure
  - Environmental disasters
- Details, scope and effects of disasters change over time as an organization evolves

318

Prohibited Transactions

- What are Prohibited Transactions?
- What can you do to prevent them?

319

Prohibited Transactions

- IRS defines these as "Prohibited transactions are certain transactions between a retirement plan and a disqualified person."
- Sections 406 and 407 of ERISA contain the basic provisions
- Section 406—Two categories:
  - Prohibitions of certain transactions between plans and parties in interest (PII)
  - Prohibitions on the conduct of a fiduciary that could result in a conflict of interest.

320

Prohibited Transactions

- ERISA Section 406(a)(1)—A fiduciary with respect to a plan shall not cause the plan to engage in a transaction that involves a direct or indirect . . .
  A. Sale or exchange, or leasing, of any property between the plan and a party in interest;
  B. Lending of money or other extension of credit between the plan and a party in interest;

321

Prohibited Transactions *(continued)*

C. Furnishing of goods, services, or facilities between the plan and a PII;
D. Transfer to or use by or for the benefit of a PII of any assets of the plan; or
E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of section 407(a).

322

Bankruptcy and Benefit Plans

- Typically two forms of bankruptcy
  - Chapter 11 (reorganization), may not impact benefit programs too much
  - Chapter 7 (liquidation), may have significant impact on benefit programs including termination
- Questions participants will ask
  - Will the plan continue or will it be terminated?
  - Who will be acting as plan administrator of the plans during and after the bankruptcy, and who will be the trustee in charge of the pension plan?
  - If the pension plan is to be terminated, how will accrued benefits be paid?
  - Will COBRA continuation coverage be offered to terminated employees?
  - If the health plan is to be terminated, how will outstanding health claims be paid?

323

Bankruptcy and Benefit Plans

- Health Plans
  - Must notify participants within 60 days of any benefit reduction
  - If overall plan continues, participants may be eligible for COBRA
  - Health plans are not insured by any Federal Government agency

Bankruptcy and Benefit Plans

- Retirement Plans
  - ERISA requires promised pension benefits to be adequately funded
  - Funds are to be kept separate from general company assets
  - Fiduciaries must avoid mismanagement and abuse of plan assets
  - Some benefits may be insured by the Federal Government
    - Pension Benefit Guaranty Corporation

PBGC

Bankruptcy and Benefit Plans

- Pension Benefit Guaranty Corporation
  - Created by ERISA
  - Funded by insurance premiums, not general tax revenues
  - Protects retirement incomes of more than 40 million workers in nearly 24,000 private-sector DB plans
  - Maximum pension benefit guaranteed is set by law and adjusted annually
    - Plans that end in **2026**, maximum guarantee for workers who retire at age 65 is **$93,477.24** (straight life annuity)

326

Fee Disclosures

- Fee Disclosures are required for plan transparency
  - Plan Investment Fees
  - Participant Investment Fees
  - Investment Alternatives
  - Compensation Disclosures
  - Brokerage Account Information
  - Conflicts of Interest
  - Plan Changes
  - Plan Performance
- SEPs, SIMPLE plans, and IRAs are not subject to these regulations.

327

Excess Fee Lawsuits

- Had been prevalent with 401(k) fees
- Two suits filed related to prescription drug plans
- Could result in changes to employer/PBM contracts

328

A Few Lessons Learned From "Excess Fee" Cases

1. Be very aware as a Plan Committee what your total fees are and where they come from and how you pay them
2. Three most important words—Document, Document, and Document your Prudence in reviewing your fees
3. RFP periodically (at least every two to three years) is a good idea
4. Be aware of the number of fund choices available to participants (*i.e.* not too many and not too few)
5. Watch out for the retail versus institutional fee levels

**Not meant to be an exhaustive list*

329

Risk Management

Boost organizational success by viewing operations from a risk management perspective

HR Departments	Mergers and Acquisitions	Business Drivers
↑ Benefit plan management and compensation	↑ Acquisition without due diligence	↑ Customers struggling, business environment changing
↓ Effective plan design, record keeping and careful accounting	↓ Thoroughly vet plans for unfunded liabilities, compliance	↓ Evaluate competitive challenges and relative strengths and weaknesses

Informed decisions should reduce future risk associated with managing employees, contracts, benefits and compliance with labor regulations.

330

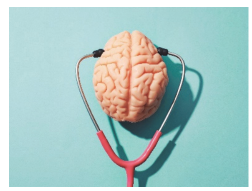
Wellness and Well-Being

331

Overview of Wellness and Well-Being

Physical → Financial → Emotional → Social






332

Class Discussion

How Wellness Impacts Benefits

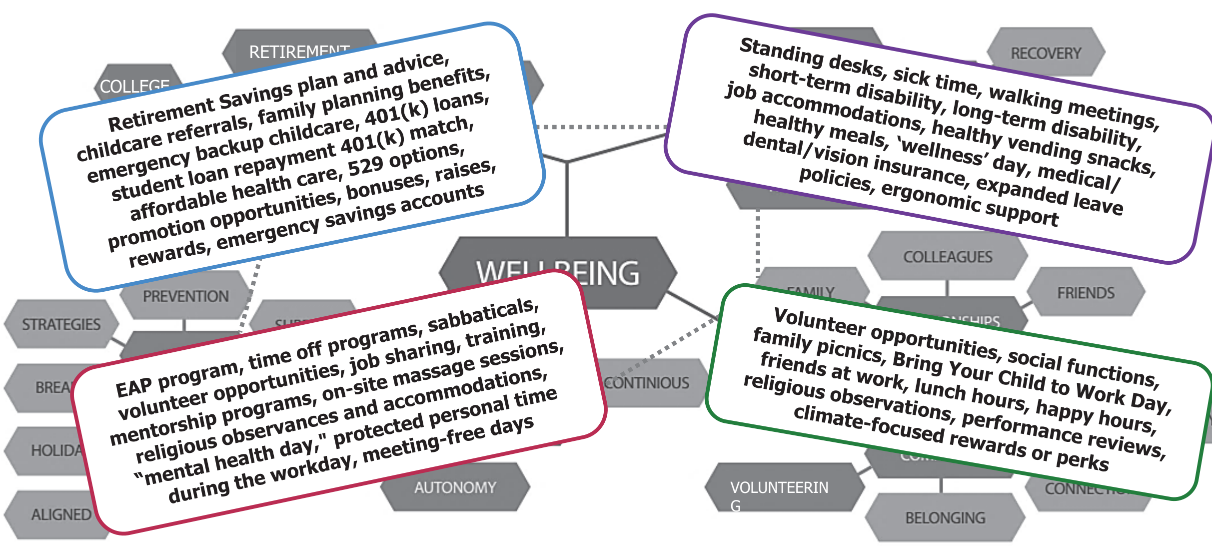
- How can the health and wellness of your employees impact your benefit plan?
- How can it impact your company?
- Do you believe wellness is important to benefits?

333

Well-Being Can Be Complicated

334

Well-Being Can Be Complicated

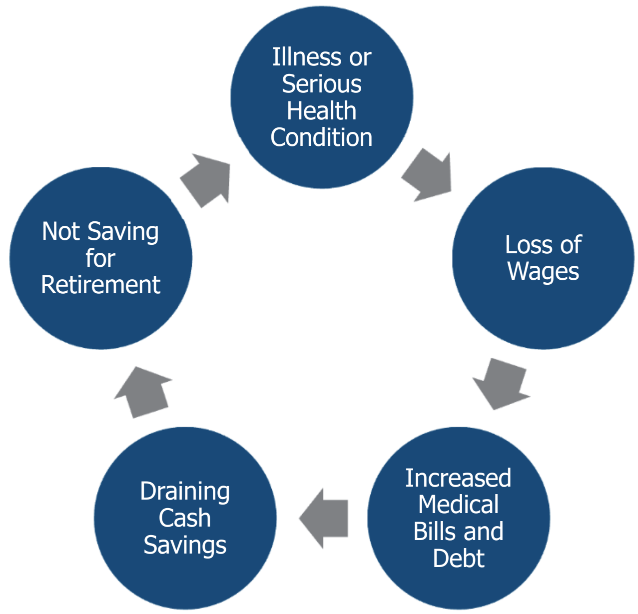


335

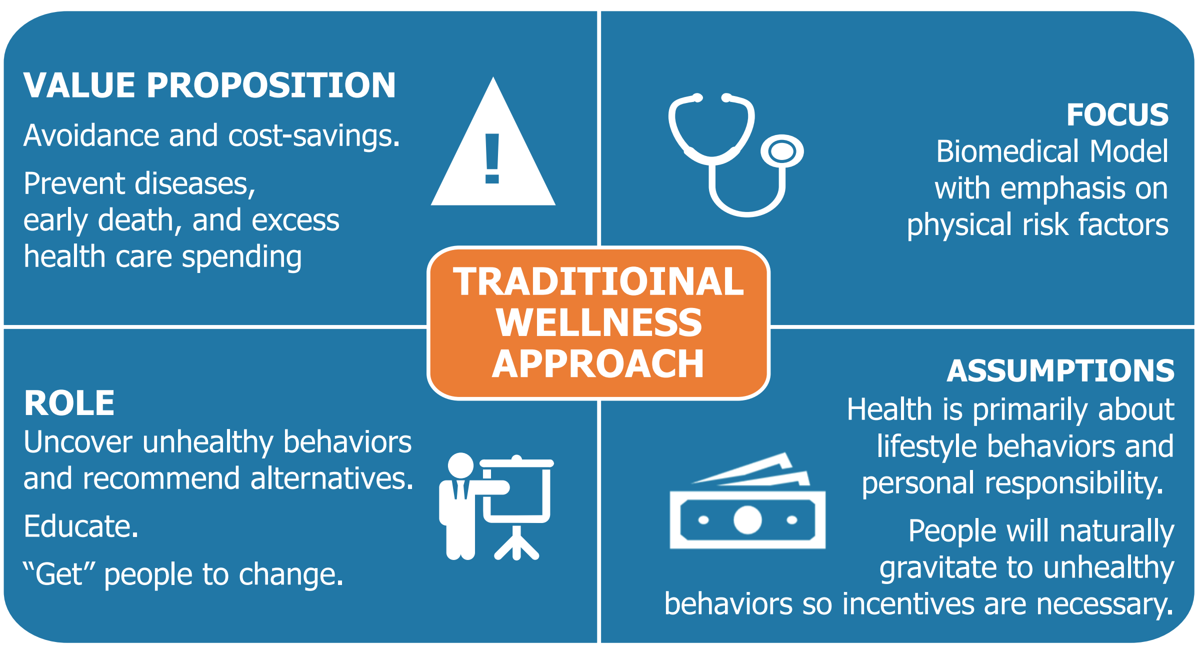
Source: https://images.app.goo.gl/csjmV7mpQctDd52r6

336

Health Impacts Wealth Impacts Health



337



338

VALUE PROPOSITION
People development

Support the growth and development of individuals.

Support the organization's purpose and business priorities.

FOCUS

Interconnected

Attend to the complex web of factors that influence well-being, performance and quality of life.

ALTERNATIVE APPROACH TO WELL-BEING

ROLE

Create the conditions.

Support inside-out transformation.

Be a change agent in your organization.

ASSUMPTIONS

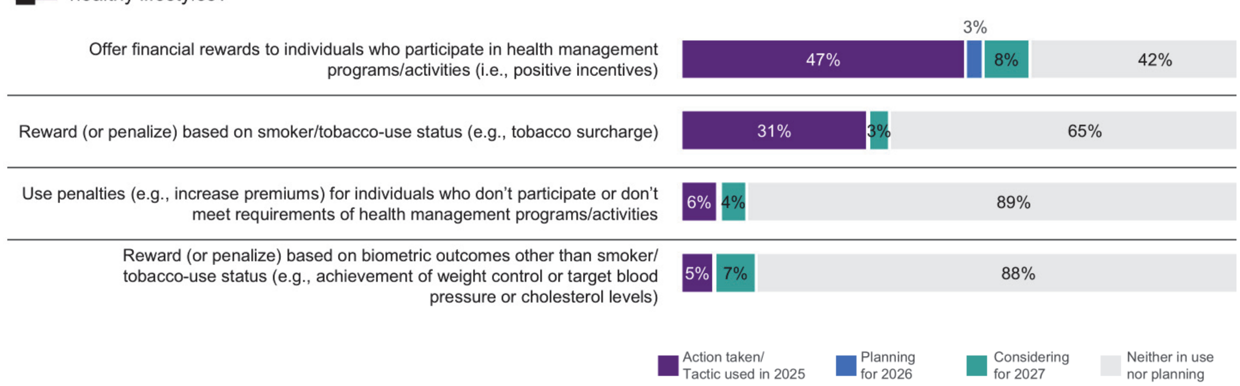
Well-being is influenced by a wide variety of inner and outer conditions. Given the right conditions, humans innately seek a flourishing state. Change is complex and happens from the inside-out.

339

Financial Incentives

Incentives to encourage healthy lifestyles

Which specific incentives does your organization have in place or plan to have in place over the next few years to encourage healthy lifestyles?



Note: Percentages may not sum up to 100% due to rounding.
Source: WTW 2025 Best Practices in Healthcare Survey.

340

Tobacco-Use Reward/Penalty

Many employers offer reward/penalize based on tobacco-use status

31% of employers reward (or penalize) based on smoker/tobacco-use status.

What is the annual amount of your tobacco surcharge?* (n = 114)

Employee only

$831 | $720
per year on average
(mean | median)

Combined employee and spouse/dependent(s)

$1,159 | $1,020
per year on average
(mean | median)

Sample: *Companies that reward or penalize based on smoker/tobacco-use status.
Source: WTW 2025 Best Practices in Healthcare Survey.

341

Wellness Rewards

Participation Only Rewards

- Employee rewards based on **participation only**, rather than achievements or outcomes, are generally acceptable.
- However, alternative means of participation must be devised and offered to employees who cannot, because of a medical condition, participate in the expected way

Achievement Rewards

- If employers want to offer rewards based on achievement rather than on participation (*e.g.*, actually quitting smoking as opposed to just participating in the program), their programs must meet five requirements:
  - The total individual reward cannot exceed **30% of the total cost** of employee-only health care coverage.
    - 50% for tobacco cessation programs
  - The programs that give rewards must be **reasonably designed to promote health or prevent disease**.
  - Participants in a program must be given the **chance to earn the reward at least annually**.
  - Programs must be available to all employees, so reward programs must give any employee for whom achieving the basic standard would be unreasonably difficult or medically inadvisable the **chance to earn the reward in another way**.
  - All communications material about the programs must **state clearly that reasonable alternatives to the basic standard are available** or that the standard can be waived if necessary.

342

Recent Wellness Outcomes Survey Results

- Results show a variety of factors can increase participation rates:
  - Incentives
  - Leadership support
  - Target programs based on health risks
  - Surveying workers for feedback on initiatives
  - Including spouses and children in initiatives
- Approximately 14% of surveyed organizations measure wellness plan ROI (down from 17% in 2022). (IFEBP-2025 Workplace Wellness and Financial Education Programs Results)
- ROI versus VOI

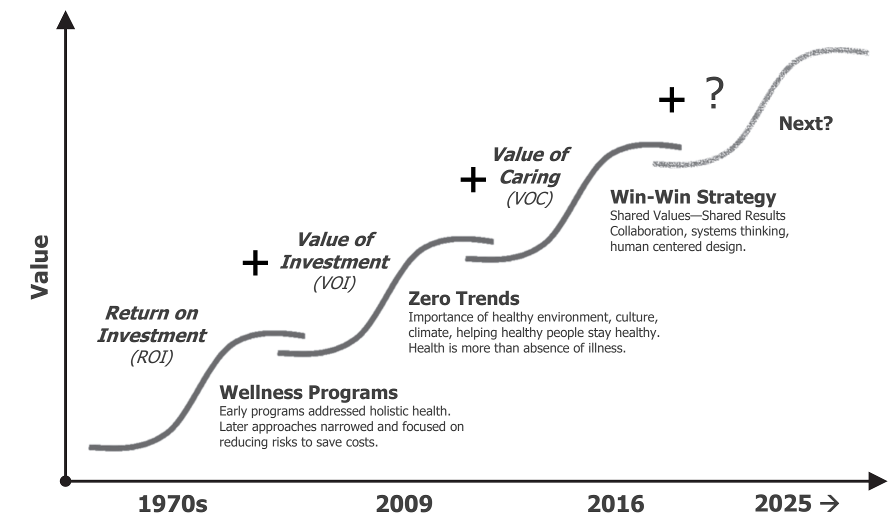
343

Evaluating the ROI of Your Wellness Program

- One argument for implementing Wellness programs used to be ROI (*i.e.*, save on health care costs)
- 2025 Workplace Wellness and Financial Education Survey from IFEBP has changed that initial argument
  - 62% offer benefits primarily to improve overall worker health and well-being (down from 72% in 2022)
  - 28% primarily aim to control/reduce health related costs (no change from 2022)

344

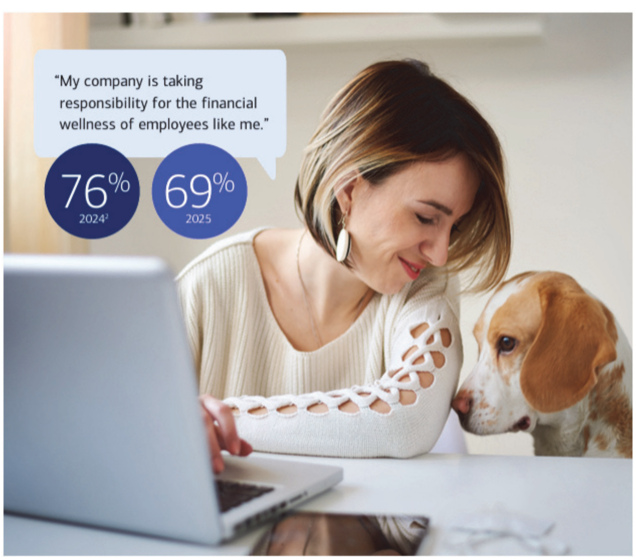
Wellness Continuous Improvement



Source: Edington, D. W., Pitts, J. (2016) *Shared Values—Shared Results: Positive Organizational Health as a Win-Win Philosophy*

345

Is It the Employer's Responsibility?



Discussion:

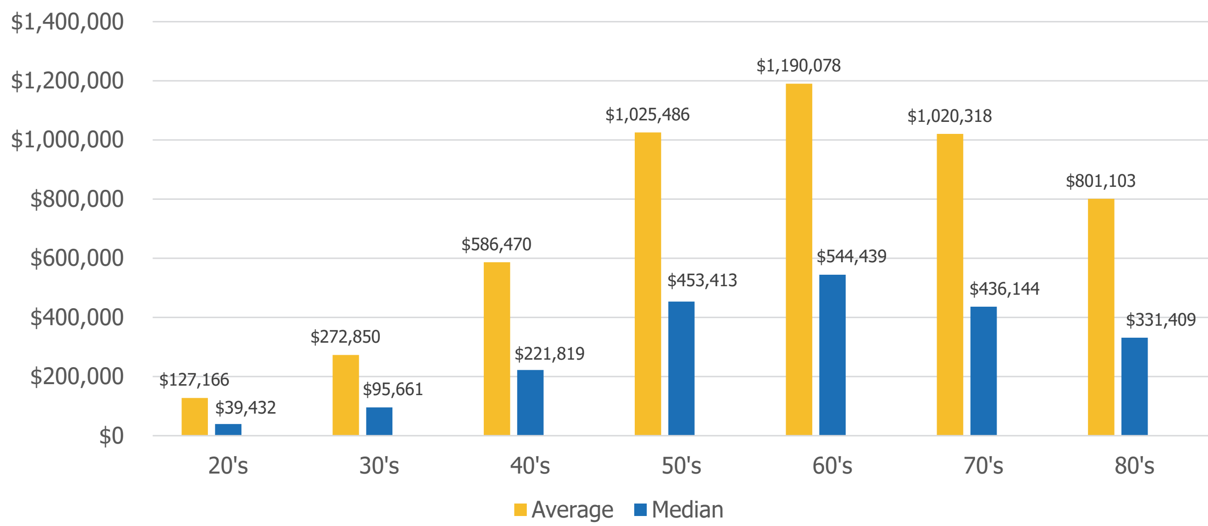
- Who taught you about finances?
- At what age did you open your own bank account?
- At what age did you start investing?

Source: Bank of America 2025 Workplace Benefits Report

346

Stressed About Retirement

Average and Median retirement savings accounts



Source: Empower, 2025

347

Current Events

348

Growing PBM Dissatisfaction

Employers are frustrated with their PBM's performance

Net Promoter Score (NPS): PBM	2024	2025
	−10	**−19**

How does your PBM support your company in the following ways?	2024	2025	Changes
Obtains advantageous pricing	**54%**	**42%**	**−12**
Leads to high-quality, low-cost care	**56%**	**46%**	**−10**
Has an advantageous rebate program	**66%**	**59%**	**−7**

(percentages reflect "agree" or "strongly agree")

Companies are increasing governance and reevaluating their PBMs

Out to bid

75% of employers have or will take their PBM out to bid

Contracting

49% use transparent and pass-through contract structures, with another **22%** planning or considering

25% use acquisition cost structures, with another **26%** planning or considering

Auditing

58% have recently audited their pharmacy benefits. Best practice is to conduct an audit every one to three years.

Sources: WTW 2024 and 2025 Best Practices in Healthcare Survey.

349

Current Events: Pharmacy

The growing financial challenges of pharmacy programs

Market forces . . .

- **Escalating drug prices**
- **Emerging models**
- **Lawsuits**
- **Legislative and regulatory momentum**

. . . are spurring demand for change

- **Fiduciary responsibility**
- **Aligned incentives**
- **Flexibility**
- **Member experience**

Sources: WTW

350

Current Events: Artificial Intelligence

Growing optimism about AI and its impact on healthcare benefits

Today

21% Only 21% of employers currently use AI in a meaningful way in their healthcare programs

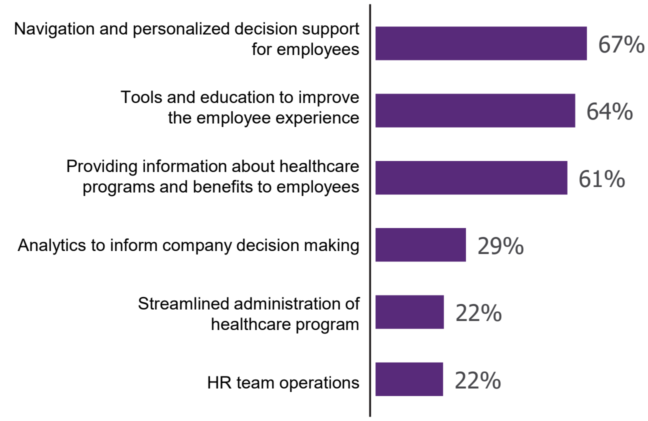
Next three years

80% But 80% of employers think it is likely or very likely that AI will fundamentally change how healthcare benefits are managed in the next three years

Rising importance of AI capabilities when evaluating healthcare vendor solutions

65% 2024 → **76%** 2025

Areas where the greatest opportunities for AI in managing health benefits



Sources: WTW 2024 and 2025 Best Practices in Healthcare Survey.

351

Current Events: Agentic AI

- The most promising result of AI and automation fusion is Agentic AI
- Excels at working collaboratively with other agents and systems to achieve specific goals without direct human oversight.
- These agents are more like digital colleagues, enhanced by LLMs, and can:
  - Work toward a purpose or set of goals
  - Plan and execute tasks based on user instructions
  - Learn from outcomes and improve
  - Collaborate with humans and other agents
- In practice, Agentic AI can initiate workflows, catch and fix errors, reroute tasks and escalate to humans only when necessary (*e.g.*, for approvals or accuracy checks).
- It makes processes resilient, adaptive and aware by tackling challenges like:
  - Independent escalation based on business priorities
  - Real-time coordination of humans, systems and data
  - Exception handling across fragmented data

352

Current Events: Trump Accounts

- Trump Accounts are a new type of tax-deferred savings account for U.S. children under 18, created by the "One Big Beautiful Bill Act," acting like a hybrid between a retirement and education savings account, allowing government/employer/family contributions invested in U.S. stock indexes, with funds accessible at 18 for qualified expenses like college or a first home, similar to traditional IRAs after that age, and feature a one-time $1,000 government deposit for kids born 2025-2028.
- **Eligibility:** U.S. citizens under 18 with a valid Social Security Number.
- **Government Seed Money:** A one-time $1,000 deposit for children born between 2025-2028.
- **Contributions:** Parents/guardians can contribute up to $5,000/year (not tax-deductible); employers up to $2,500/year (not taxable to employee/employer but counts toward total).
- **Investment:** Funds must go into low-fee mutual funds/ETFs tracking U.S. stock indexes (like the S&P 500) during the "growth phase" (until age 18).
- **Withdrawals (After Age 18):** Treated like a traditional IRA; withdrawals are taxed but penalty-free for education, first-time home purchase, or retirement.
- **Establish:** A parent/guardian elects to open one using IRS Form 4547.
- **Fund:** Money is deposited, including the initial government funds for eligible children.

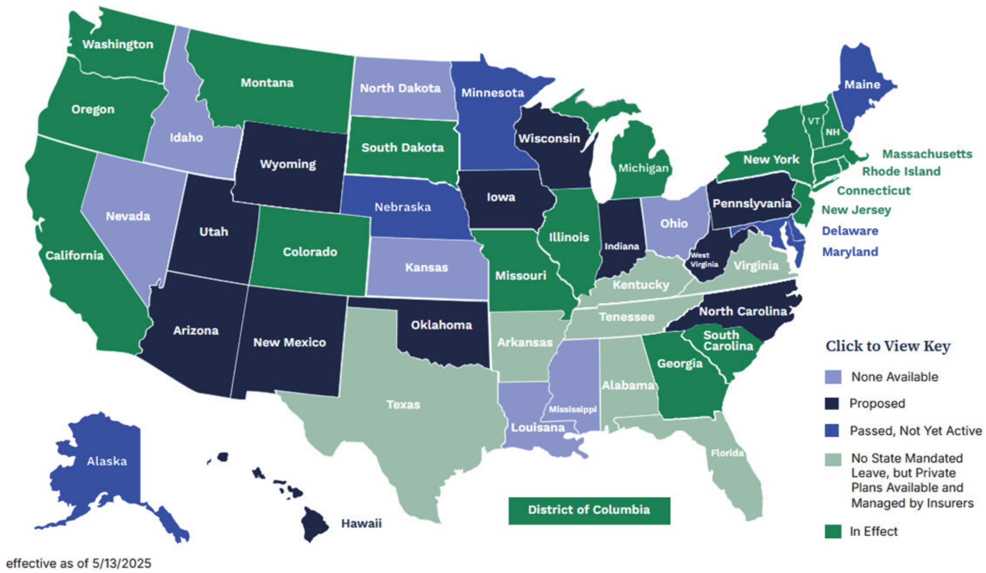
353

Current Events: ACA Subsidies Expiring

- **Subsidy Changes**: Enhanced Premium Tax Credits under ARPA/IRA end Dec 31, 2025; rules revert to pre-pandemic levels (400% FPL cap returns).
- **Cost Impact**: Marketplace premiums projected to rise sharply (up to 75%); millions may lose subsidies or drop coverage.
- **Employer Strategy**: Expect increased reliance on employer plans or ICHRAs; review affordability, adjust contributions, and model 2026 impacts.

354

Current Events: State Leave Laws

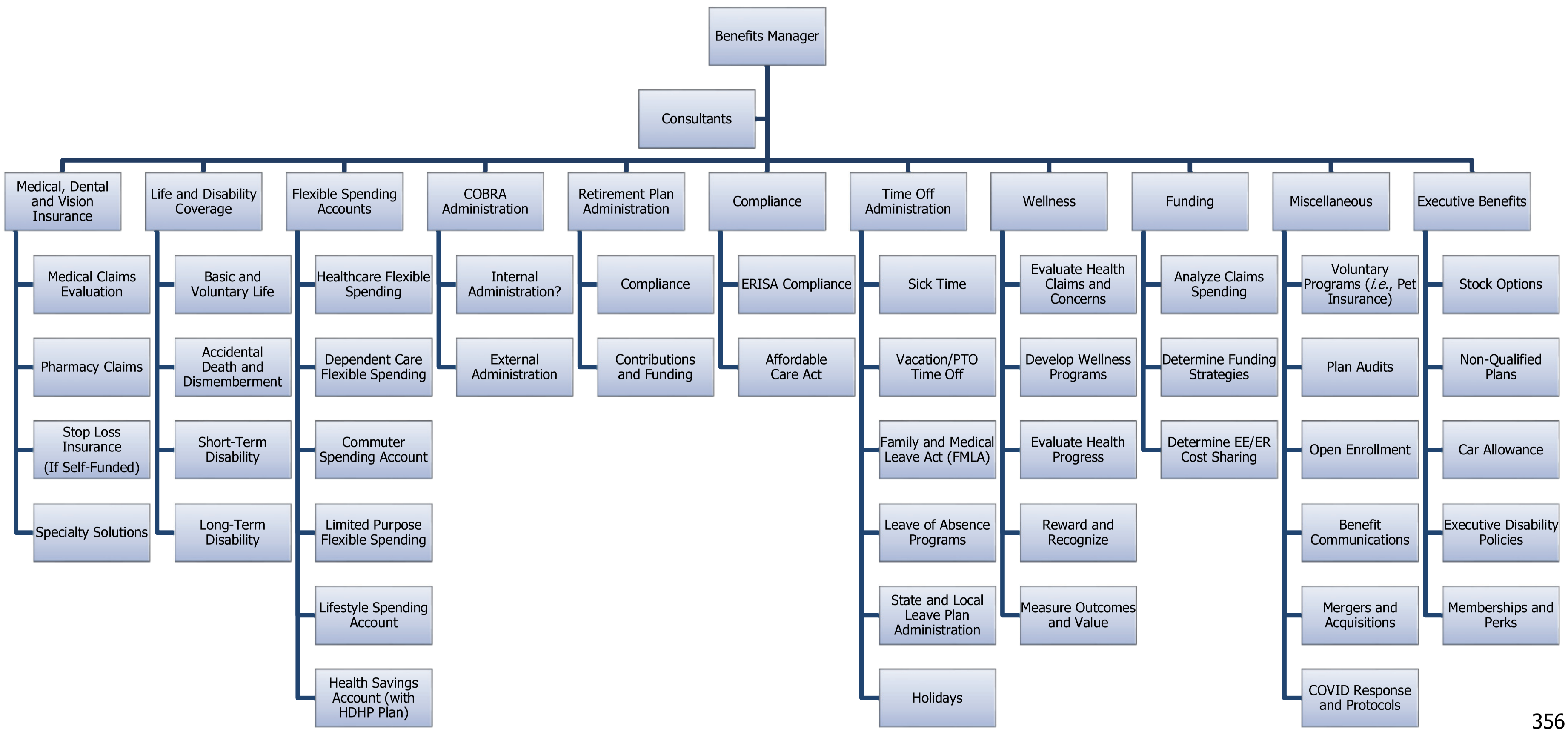


Class Discussion:
What are the leave laws in your state?

Source: https://content.assuredpartners.com/paid-family-leave-map/

355

The Org Chart of Employee Benefits



356

Case Study

357

Questions?

358

Key Takeaways

- Strengthened understanding of core retirement plan structures and responsibilities
- Improved awareness of organizational and plan-level risks
- Gained insight into wellness and well-being program strategies
- Applied course concepts through a real-world case study
- Feedback on content and course goals

Your Feedback Is Important. Please Scan This QR Code.

Day Two and Overall Evaluation

359