

Employer Fiduciary Responsibility Under ERISA: A Summary

The fiduciary duty rules set forth in ERISA are generally applicable to retirement plans and health plans alike. Unless an employer's health and welfare plans fall outside of the specific scope of ERISA (e.g. exempt as state/local governmental entity), then ERISA's fiduciary duty rules apply to any entity or individual deemed to be a fiduciary with respect to those plans. [ERISA § 3\(21\)](#): The following specific duties apply:

- **Duty of Prudence and Loyalty** ([ERISA §404\(a\)\(1\)\(A\)&\(B\)](#))
- Health plan fiduciaries are mandated to perform their duties in the best interest of the participants and beneficiaries with care and diligence, mirroring the prudence expected of a person with similar responsibilities in health plan matters.
- **Prohibited Transactions** ([ERISA §406\(a\)\(1\)](#)): Health plan administrators must avoid conflicts of interest and prohibited transactions, ensuring that all dealings are made to benefit the plan and its participants without improper incentives.
- **Exclusive Benefit Rule** ([29 U.S. Code § 1104](#)): Administrators of health plans are obliged to ensure that all plan assets are used solely for the purpose of providing benefits to participants and beneficiaries, without diversion for other purposes.

Relevant Regulations for Health Plan Fiduciaries:

- **Fiduciary Requirements for Disclosure** ([29 CFR 2550.404a-5](#)): This regulation, though primarily known for its application to retirement plans, also establishes the framework for transparency that health plan fiduciaries should follow, ensuring participants receive essential information about their health benefits.
- **Definition of the Term "Fiduciary"** ([29 CFR 2510.3-21](#)): While this regulation traditionally applies to investment advice within retirement plans, the principles of fiduciary conduct it describes are relevant to health plan administrators who provide advice or make decisions about plan management and benefits.

Updates from the Consolidated Appropriations Act (CAA):

- The CAA introduced new provisions that enhance transparency and prevent practices that could limit plan sponsors' ability to make informed decisions about health plan services and costs, applying fiduciary principles to the relationships between health plans and brokers or consultants. Gag clause prohibitions are addressed in [Section 202 of the CAA](#), and compensation disclosure requirements for brokers and consultants are found in [Section 202\(b\)](#)

Additional References:

- **DOL Fiduciary Guide for Employers**: This guide provides employers with an understanding of their responsibilities under ERISA. ([DOL Guide to Understanding Your Fiduciary Responsibilities Under a Group Health Plan](#))
- For up-to-date DOL guidance and regulations, refer to the Employee Benefits Security Administration (EBSA) website: www.dol.gov/agencies/ebsa
- Recent Request for Information Issued by Virginia Fox which requests input on "how can Congress build upon ERISA regarding the fiduciary obligations of plan sponsors, administrators, and trustees in the management of health benefit plans?" ([RFI](#))

Relevant Cases:

- [Massachusetts Laborers' Health and Welfare Fund v. BCBSMA](#): First Circuit dismissed the case, holding that the plaintiffs held fiduciary liability, and not BCBSMA under ERISA.
- [Bricklayer v. Elevance Health](#): Unions sued Elevance Health for restricting access to claims data and overcharging, recognizing Bricklayers ERISA fiduciary obligations could only be fulfilled with access to claims data and ability to act in the plans sole and exclusive best interest.

Conclusion:

Employers have a defined fiduciary responsibility under ERISA to act in the best interests of their plan participants and beneficiaries. This includes prudent management of plan assets, avoidance of prohibited transactions, and adherence to the exclusive benefit rule. Statutory text, case law and DOL regulations establish and reinforce these responsibilities and provide additional guidance for employers to ensure compliance with ERISA's fiduciary standards.