

Employers' Potential Fiduciary Liability regarding Evidence of Insurability for Employee Provided Life Insurance

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PRACTICES Employee Benefits and Executive Compensation

As employers are gearing up for open enrollment, they should review their processes to ensure that premiums for supplemental life insurance are only withheld if the employer has first verified with the life insurance company that any required evidence of insurability (“**EOI**”) has been submitted and approved. The DOL previously announced a settlement with Prudential Insurance Company of America (“**Prudential**”) that required Prudential to revise its practices after the DOL found it collected life insurance premiums for extended periods of time but then denied claims citing the failure to provide the required EOI. The DOL stated that other life insurers have engaged in similar practices. The settlement with Prudential notes that group policyholders, such as employers, who collect premiums without confirming that the insurer has approved the EOI may be liable for beneficiaries’ death benefit claims. The settlement requires Prudential to notify employers that they should not collect any premiums for coverage that requires an EOI without confirming that Prudential has approved the EOI and, if the employer does collect premiums without getting this confirmation, the employer may be liable to the beneficiaries for any denied benefits claims under the policy. The settlement also prohibits Prudential from denying claims based on the failure to submit an EOI if it has accepted at least three months of premiums for coverage.

The Prudential settlement agreement is available [here](#).