

# Evidence of Insurability: Why Employers Must Get This Right

---

December 23, 2025

---

**PRACTICES** Employee Benefits and Executive Compensation

---

Evidence of Insurability (“**EOI**”) is one of the easiest benefits steps for employers to overlook—and one of the most dangerous. For life insurance or disability plans, EOI is required when an employee elects coverage above guaranteed issue limits, enrolls after initial eligibility period or open enrollment, or adds coverage after previously waiving it and requires additional medical or health-related information be provided to evaluate insurability. Until the insurer approves EOI, elected coverage is not in effect, even if enrollment is otherwise complete and payroll deductions have started. Problems arise when employers allow deductions before approval, fail to track EOI submissions or decisions, or incorrectly provide enrollment confirmations that imply coverage is in force. When a claim is later denied, employees often look to the employer rather than the insurer, which raises ERISA fiduciary and misrepresentation claims. EOI is not just an administrative detail. Plan administrators have a fiduciary duty to follow plan terms, clearly communicate when coverage is pending approval, and oversee vendors handling enrollment and underwriting. Delegating enrollment or relying on a carrier or third party administrator does not eliminate potential liability of plan sponsors. Our prior post regarding a DOL settlement on this issue can be found [here](#).

**Bottom line:** If EOI is required, coverage does not exist until it is approved. However, courts often are unforgiving to employers when an EOI failure surfaces after death or disability, thus opening risk to breach of fiduciary duty claims or equitable relief. Plan administrators that proactively manage EOI and communicate clearly can avoid costly disputes when it matters most.