

Sixth Circuit Case is a Reminder for Employers to Review Their Voluntary Supplemental Benefit Programs

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Many employers offer supplemental benefits, such as optional long-term disability benefits and life insurance, to their employees in addition to the base level of such benefits provided by the employer. Since these benefits are typically fully-insured, the administrative burden that falls on employers is usually minor, unless the employer elects to have a larger role in administering those benefits. However, employers should use care before agreeing to handle additional obligations with respect to those benefits. In a recent opinion of the U.S. Court of Appeals for the Sixth Circuit, the widow of a former participant in an optional term life insurance policy offered by the employer brought claims against the employer for a breach of fiduciary duty under ERISA after she was denied a death benefit payment under the policy. Among other claims, the suit alleged the employer breached its fiduciary duty by mishandling plan assets when the employer (i) collected premiums for the former employee's short and long-term disability insurance when he was on leave, even though such premiums were not due, and failed to credit such premiums to the optional life insurance policy; and (ii) failed to credit the former employee's accrued paid time off to his optional life insurance premiums or inform him of such option. The district court initially dismissed such claims on the basis that the employer did not act in a fiduciary capacity when it performed only "ministerial functions" for such benefits. On appeal, the Sixth Circuit reversed the dismissal, holding that the employer was a fiduciary because it (a) exercised control over the plan's assets when it handled the employee's premiums, (b) exercised control over the disposition of the plan's assets, and (c) had discretionary authority over the administration of the plan, including deciding appeals of benefit claims.

If an employer offers these types of supplemental benefits and agrees to handle more than just the collection and remittance of related premiums, the employer may find itself unknowingly in the role of a fiduciary. Employers should thus regularly evaluate how their supplemental benefit programs are being administered and ensure they understand the risks associated with any decision to expand their administrative involvement with those programs.

We have previously discussed other issues associated with supplemental benefit programs in our blog [here](#) (employer obligations regarding life insurance), [here](#) (employer endorsement of voluntary benefits), and [here](#) (determining whether voluntary benefit programs are subject to ERISA).

The case *Chelf v. Prudential Ins. Co. of Am.*, 20-6097, 2022 WL 1090168 (6th Cir. Apr. 12, 2022) is available [here](#).