

YOUR RIGHTS TO HEALTH CARE BENEFITS UNDER THE ACA

With the dawn of the Affordable Care Act (ACA), change is coming to employer-provided health care.

In 2014, employers that offer health care benefits must (with some exceptions) abide by a new set of rules that help plan participants. These include:

- That plans may not impose any preexisting condition exclusions.
- That plans may not discriminate against individuals who enroll for coverage based on their health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.
- That plans will allow all licensed health care providers to participate.
- That employees must be allowed to enroll within 90 days of employment.
- That plans must cover treatment in clinical trials.

Participants also now enjoy expanded rights to appeal plan decisions, with more protection against having benefits suspended or cutoff.

Experienced counsel can counsel employees who run into difficulties with their employer health coverage. expense, you may also order copies.

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YOUR RIGHTS TO EMPLOYMENT BENEFITS

Most U.S. employees enjoy access to benefits at work. These include retirement pay, health benefits, disability pay, and even severance pay. Sometimes, though, employers make mistakes or even unfairly deprive employees of their benefits. An experienced lawyer can help restore benefits that rightly belong to you.

Many plans operate under a national statute, the Employee Retirement Income Security Act (usually shortened to “ERISA”). Despite its name, ERISA covers health insurance and other kinds of benefits, too. While ERISA does not require that employers provide benefits, it sets the ground rules for those that do.



Here are some important ERISA rights that you have as a benefit plan participant:

You have the right to read and know about the benefit plan: A plan consists of legal documents that describe the rights and obligations of participants (the employees) and beneficiaries (their dependents). Under ERISA, a plan administrator – typically, your human resources office - must make plans available for your review free of charge. Key documents may include include insurance contracts, plan and trust documents, collective bargaining agreements, and all documents filed with the government. At your own expense, you may also order copies.

You have the right to receive a summary of your plan and notice of all updates: Along with your right to review the plan documents, an employer must also provide a short and easy-to-read summary of your rights, and notice of any important changes to the plan. You also have a right to periodic statements of your retirement benefits. (While helpful, you should never rely on these documents alone in figuring out your rights. When you have questions, you should always review the plan documents themselves.)

You have a right to keep your retirement benefits, once you have earned them: ERISA requires generally that employees be allowed to participate in a retirement plan after one year of full-time employment. Also, an employee’s retirement pay that has already been earned cannot be reduced by a later amendment to the plan.

You have a right to truthful and complete responses to your plan questions: An ERISA plan is like a written contract. As with any contract, the terms may be unclear to you or you may have questions. You may, for instance, want help with whether a particular kind of medical treatment is covered by your health plan. In such cases, you will want help from the plan administrator. You have a right to honest answers. (Still, you should never fully rely on an oral promise or commitment, which could be mistaken. Always review and rely on the written plan materials.)

You have the right to appeal an incorrect decision: All plans must provide a participant or beneficiary of a plan the right to appeal an adverse decision to a person or panel. Plans can provide up to two levels of appeals. Usually, you must go through the appeal process before you can take legal action in court.

You have a right to go to court, or an arbitrator: If a plan refuses to pay promised benefits, or a plan administrator is not honest or makes a mistake, ERISA provides that the participant or beneficiary may file an action in court (or with an arbitrator, if the plan provides for one). This allows an outside decision-maker to determine your rights. A court or arbitrator can order that the plan reconsider your case, or in some instances even award you the benefits you were denied. And a successful participant or beneficiary can even win their attorney’s fees and costs.

You also have a right not to be fired, if the employer’s purpose is to prevent you from receiving your benefits, or to retaliate against you for exercising your rights under a plan or under the ERISA law.



Other common kinds of benefits are not part of ERISA, yet may be protected by other laws. These include vacation pay, paid and unpaid leave, and stock-based executive pay. An experienced lawyer can also be a valuable source of information.