

## How Employers Can Reduce Fiduciary Exposure

Litigation and regulatory scrutiny increasingly treat welfare plan fiduciaries through the same lens historically reserved for retirement plan oversight committees. Employers are now facing claims that they failed to monitor pharmacy benefit managers (PBMs), paid excessive administrative or broker fees, or permitted undisclosed broker compensation. Forming a welfare plan fiduciary committee can help reduce exposure to these lawsuits and strengthen an employer’s ability to defend against them.

ERISA necessitates, as part of the duty of prudence, a well-documented decision-making process. A committee provides that structure by delegating authority, clarifying accountability, and ensuring consistent fiduciary oversight of benefit plans.

### Reasons to Act:

**Defined fiduciary responsibility.** Without a committee, board members and/or senior executives are likely to be fiduciaries of the welfare plans, often without the capacity for detailed oversight. A committee separates plan fiduciary decision-making from the board and day-to-day operations and establishes a clear delegation of responsibility.

**Documented prudence.** Benefit plan lawsuits typically hinge on process. Regular meetings, formal agendas, and minutes demonstrating competitive bidding, fee benchmarking, and vendor review create an evidentiary record that can help defend against litigation.

**Vendor and compensation transparency.** Committees can scrutinize carrier renewals, PBM pricing, and broker compensation—areas under increasing scrutiny from plaintiffs and the Department of Labor—to confirm reasonableness and alignment with participant interests.

Typically, the board of directors will appoint the committee members. A written charter is recommended, and committee members should formally acknowledge their fiduciary role. The committee should meet regularly, document its work, retain minutes, and report periodically to the board or a board committee. Fiduciary training can further support committee members in understanding and carrying out their responsibilities. As a related matter, employers may wish to obtain or review fiduciary liability insurance coverage. *Source: [Bradley](#)*

## Understanding Health Plan Cost Distribution

Employer health plan costs are often driven by a small number of high-cost claimants. The table highlights this dynamic, showing that while most members have minimal annual claims, a relatively small group generates the majority of total health care spending. For employers, recognizing this distribution can help inform strategies that balance cost management with effective support for the entire covered population. *Source: [EBRI](#)*

| Distribution of Health Spending, Among Individuals with Employment-Based Health Coverage, 2023 |                        |                         |
|--|------------------------|-------------------------|
| Spending   | Percentage of Spending | Proportion of Enrollees |
| Overall  | 100%                   | 100%                    |
| No Claims  | —                      | 20%                     |
| Under \$500  | 1%                     | 20%                     |
| \$500 to Under \$887   | 1%                     | 10%                     |
| \$887 to Under \$5,000   | 11%                    | 30%                     |
| \$5,000 to Under \$10,000  | 9%                     | 8%                      |
| \$10,000 to Under \$25,000   | 18%                    | 7%                      |
| \$25,000 to Under \$50,000   | 16%                    | 3%                      |
| \$50,000 to Under \$150,000  | 23%                    | 2%                      |
| \$150,000 or more  | 22%                    | 0.50%                   |

### Court Signals Broader Fiduciary Duty to Inform Employees of Key Benefits

In [Atkins v. Prudential Insurance Co. of America](#), the Northern District court of Georgia allowed an ERISA fiduciary breach claim to move forward after an employer allegedly failed to inform a terminally ill employee about a life insurance waiver-of-premium provision that could have preserved her coverage. The employee stopped working after being diagnosed with ovarian cancer and was eligible for a plan feature that waived life insurance premiums during total disability, but coverage ultimately lapsed because she was never told she needed to submit written proof of continued disability. Although the employer continued sending benefit statements and premium invoices while she was on disability leave, the court determined those communications were not misleading on their own. However, the court emphasized that ERISA fiduciary duties may extend beyond correcting inaccurate statements, particularly in “special circumstances,” such as when an employer knows an employee is terminally ill, unlikely to return to work, and could lose significant benefits without timely information.

The ruling highlights that fiduciary liability may arise not only from misleading communications, but also from silence; failing to proactively disclose critical benefit protections when the employer has specific knowledge that an employee may otherwise lose coverage.

#### Key Takeaway for Employers

Employers and plan administrators should review internal processes to ensure employees on disability or extended leave are clearly informed about benefit provisions—such as waiver-of-premium life insurance protections—that may require timely action to maintain coverage.

Source: [Roberts Disability Law](#)

### Growing Link Between Hearing Loss and Dementia

By 2050, an estimated 140 million people worldwide will be living with dementia, including roughly 1 in 30 Americans. While no proven therapies currently cure or prevent dementia, research increasingly points to hearing loss as one of the most significant potentially preventable risk factors.



Studies show that individuals with mild, moderate, and severe hearing loss face 2x, 3x, and 5x greater risk of developing dementia compared to those with normal hearing. Hearing loss forces the brain to work harder to interpret sound and can also reduce communication and social engagement, both factors linked to cognitive decline.

Encouragingly, research suggests intervention may help. A recent study of adults ages 70–84 with untreated hearing loss found that hearing aids slowed cognitive decline by 48% over three years among those at higher risk.

Hearing intervention typically includes two key components: hearing aids or related hearing technologies, and diagnostic care and support from an audiologist to help individuals use these tools effectively and improve communication.

Although Medicare and most private insurance plans do not cover hearing aids or hearing care services, recent policy changes have improved access. In 2022, the FDA authorized over-the-counter hearing aids, helping make treatment more affordable and accessible for many Americans.

Source: [ACHIEVEStudy](#)

#### State Leave Laws Expand in 2026

A summary for employers regarding:

- State and local laws
- Paid sick leave
- Family and medical leave

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