§629-B. Employee health benefit plans

1. Application. This section applies to health benefit plans that an employer provides or agrees to provide to the employer's employees. It does not apply to employee health benefit plans separately provided by any employee organization or bargaining agent, regardless of any financial contribution to that plan by the employer.
[RR 2023, c. 2, Pt. E, §16 (COR).]

2. Failure to implement health benefit plan. If an employer fails to implement a health benefit plan that the employer had agreed to provide to that employer's employees, the employer shall notify the employees of the failure to implement the plan as soon as possible after the employer knows that the plan will not be implemented. The employer is liable for benefits that would have been payable to a covered employee, if the health benefit plan had been in force during the period of time from the date that the employer had agreed to implement the health benefit plan, until the employer gives the employee notice of the employer's failure or inability to provide the health benefit plan.
[RR 2023, c. 2, Pt. E, §17 (COR).]

3. Termination or change in carriers of a health benefit plan. If an employer terminates a health benefit plan for employees, if a health benefit plan for employees is terminated for failure to pay premium or for any other reason or if the insurance carrier administering the health benefit plan is changed, the employer shall notify the covered employees of the termination of their coverage or the change of carriers at least 10 days before the termination or the change of carriers takes effect. The employer is liable for benefits which would have been payable to a covered employee had the health benefit plan remained in force and not been terminated or the carrier changed during the period of time following the termination of or change in carrier of the health benefit plan until the employee is given notice of the termination or the change of carrier.
[PL 1985, c. 660 (NEW).]

4. Notice. Whenever notice to an employee is required under this section, the notice must:

A. Be in writing; and [PL 1985, c. 660 (NEW).]

B. Be delivered:

(1) In person to the employee;

(2) To the employee by the same means as and along with wages due the employee; or

(3) By mailing the notice to the employee's last known address. [PL 1985, c. 660 (NEW).]
[PL 1985, c. 660 (NEW).]

5. Wage withholdings. When an employer makes withholdings from employees' wages for contributions to health benefit plans, the employer shall be the trustee of the funds until they are paid to the health carrier. The employer is liable to an employee for any wages withheld for the purpose of financing an employee health benefit plan and which are not actually used for that purpose.
[PL 1985, c. 660 (NEW).]

6. Action; parties. An action for benefits under this section may be brought by:

A. The affected employee or employees; or [PL 1985, c. 660 (NEW).]

B. The Department of Labor on behalf of the employee or employees. [PL 1985, c. 660 (NEW).]
[PL 1985, c. 660 (NEW).]

7. Lien. Whoever loses wages or medical benefits due to an employer's violation of this section shall have a lien against the employer's real estate or personal property for the full amount of the wages wrongfully withheld and the medical benefits for which the employer is liable under this section.

A. The lien shall be created by filing the statement described in this subsection in the appropriate place for filing an execution lien on real property, personal property or motor vehicles under Title 14, section 4651-A. The statement filed must contain:

(1) A statement of the amount of wages or medical benefits claimed to have been lost;

(2) The name and address of the employer and the name and address of the person claiming the loss of wages or benefits; and

(3) A recital that by virtue of the loss a lien is claimed on the real estate or personal property of the employer for the amount of the claim.

The statement must be subscribed and sworn to by the person claiming the lien or by someone on the person's behalf. Upon the filing of the statement, the amount claimed in the statement constitutes a lien upon the property for which the statement is filed. [RR 2023, c. 2, Pt. E, §18 (COR).]

B. A lien created under this subsection is void 20 days after the date on which the statement described in paragraph A was filed unless, within the 20-day period, the person claiming the lien or someone on the person's behalf notifies the employer, by certified or registered mail sent to the employer's last known address, of the existence of the lien. The notice must contain the following:

(1) The fact that a lien has been filed;

(2) The date and place the lien was filed;

(3) The amount of the claim on which the lien is based;

(4) The name of the person making the claim and the person's attorney, if any, including their addresses; and

(5) The following statement: "To dissolve this lien, please contact (the person making the claim or the person's attorney). A bond may be given to the claimant to replace the lien." [RR 2023, c. 2, Pt. E, §19 (COR).]

C. A lien created under this subsection is void 90 days after the date on which the statement described in paragraph A was filed unless, within the 90-day period, an action to enforce the lien is commenced and a clerk's certificate of the commencement of the action is filed in the place where the statement is filed. Upon the filing of the clerk's certificate, the lien shall continue until a final judgment. Thereafter, extensions of the lien shall be governed by the provisions for extensions of attachments in Title 14, section 4601. [PL 1987, c. 231 (NEW).]

D. An employer may, at any time after receiving notice of a lien under paragraph B, give bond, with sufficient sureties, in the amount of the claim to the person claiming the lien. Within 7 days of receipt of the bond, the person claiming the lien or someone on the person's behalf shall discharge the lien. [RR 2023, c. 2, Pt. E, §20 (COR).]

[RR 2023, c. 2, Pt. E, §§18-20 (COR).]

8. Exceptions. The following exceptions apply.

A. An employer is not liable under this section for benefits which would have been payable under an employee health benefit plan if the failure to provide the notice required by subsection 2 or 3 is due to circumstances beyond the control of the employer. [PL 1985, c. 660 (NEW).]

B. This section does not apply to any termination of or failure to implement an employee health benefit plan which results from or occurs during a strike or lockout. Section 634 applies to the termination of any employee health benefit plan during a strike. [PL 1985, c. 660 (NEW).]

[PL 1985, c. 660 (NEW).]

SECTION HISTORY

PL 1985, c. 660 (NEW). PL 1987, c. 231 (AMD). RR 2023, c. 2, Pt. E, §§16-20 (COR).

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