Heliport Liability Coverage Considerations (Part II)

In part one of our two part series we gave a brief overview of heliport liability coverage. This article focuses on the exposures that may need to be evaluated as your facility considers the need for a separate heliport liability policy.

**Aviation-related activities:** Coverage provided for injury to a third-party or their property from the operation of a helicopter in and out of a hospital’s helipad; for example, damage caused to a vehicle from debris.

**Non-owned aircraft liability:** Coverage for health care facilities who bill patients for use of the helicopter. The hospital may assume liability as a patient transport service and any damage in route may be the responsibility of the hospital. This coverage may be endorsed onto a helipad liability policy or purchased as a separate policy.

**Ground hangar keepers liability:** Coverage as a result of a helicopter remaining at the hospital or base location overnight. This provides coverage for aircrafts that are not owned by the hospital but may be held liable while the helicopter is in their custody.

**Products and completed operations coverage:** If fueling or maintenance of the aircraft is performed at your facility, this coverage protects the hospital from “indirect” or “contingent” liability.

For more information regarding heliport liability, contact Matt Wahoske, FinCor Solutions, at mwahoske@fincorsolutions.com or at 608-469-8590.

Fiduciary Responsibility in Today’s Financial Climate

The current environment of financial market turmoil is causing many retirement plan sponsors to re-examine their fiduciary responsibilities to the defined contribution plans they oversee and the participants in those plans. In most cases, the first person a plan sponsor turns to with these questions is their plan advisor. A great place to begin such a conversation is by covering two main topics: proactive employee communications and adherence to a prudent process of managing investment decisions (including a review of investments currently offered).

As a plan fiduciary, you have a responsibility to the plan and its participants, regardless of market ups and downs. Most importantly, you should attempt to combat the panic that some in the media are feeding and remind your participants to stay the course by avoiding such bad behavior as market timing. Missing out on just a handful of the best-performing days in the market may leave investors at a significant performance disadvantage compared to investors who remain fully invested for the long term. Although unnerving at times, some of the sharpest market declines have been followed by steep rebounds. Today’s financial climate presents an excellent opportunity to remind participants of the importance of diversification (putting all their money in cash is not the solution to this market crisis), regular rebalancing, dollar cost averaging and the long-term nature of retirement savings. Meeting with a financial professional is a great step that participants can take towards creating a healthy financial picture.

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With regard to managing investment decisions, a fiduciary demonstrates prudence by the documented process they follow to make decisions on the selection, removal, and replacement of investment options. Documentation of both the process and outcomes is paramount. When the process is followed properly it can significantly reduce and shield plan fiduciaries from potential liability regarding participant investment decisions. Accordingly, this is a great opportunity to review the protections of complying with ERISA Sections 404(a) (fiduciary duties) and 404(c) (protections from liability for participant investment decisions). WHA Financial Solutions can also help you work through the Fiduciary Checklist, a thorough examination of fiduciary best practices that was developed by industry-leading ERISA attorneys. Fiduciaries are also well-served to confirm the extent that investments presently offered to participants include exposure to distressed obligations and/or failing institutions and insurers. Most retirement plan vendors have already produced marketing materials that address the issue, and these pieces can be distributed to participants. Obtaining related documentation from your vendor will support your due diligence efforts and can be used as part of a prudent employee communication plan.

Establishing and maintaining clear lines of communication with participants and following a prudent process of determining plan investment options can provide meaningful advantages to plan fiduciaries and participants alike.

Article courtesy of NFP Benefits.

**Benefits Compliance FAQ**

**Question:** We are cleaning out our files to start fresh for the New Year. How long should we keep employee benefits related forms, claims, bills, and booklets?

**Answer:** The Employee Retirement Income Security Act (ERISA) provides guidelines for certain record retention requirements for plan sponsors and employers. ERISA §§107 and 209 impose the time frames that employee benefit plan records must be maintained. In the event an employer or sponsor is unable to furnish such records during that time frame, there are applicable fines and penalties that may be levied. ERISA has conveniently provided that an electronic copy of a form is as good as a paper one as long as certain requirements are met. The electronic recordkeeping system must maintain the integrity of the original document, be properly backed up, and be able to print legible copies.

Generally, ERISA requires that plan records must be kept "for a period of not less than six years after the filing date of the [related reporting] document." Since the Form 5500 is not due until seven months following the end of the plan year and many plans file a 2 1/2 month extension, it is generally recommended that such records be kept for eight years. Records that fall in this category include: plan documents, summary plan descriptions, certificates of coverage, Form 5500s, COBRA notices, claim approvals, denials and appeals, election materials, forms and changes, participant contributions, and administrative expenses.

Records regarding selection, monitoring correspondence and contracts of service providers, and most HIPAA-related documents must be maintained for a period of at least six years.

Finally, the Internal Revenue Code § 6039D presents yet different record retention time frames, as it mostly affects records relating to eligibility rules, discrimination testing and election records for cafeteria plan components such as dependent care flexible spending accounts (FSA) and health savings accounts (HSA). These records must be maintained for at least five years. Cafeteria plan components that are subject to ERISA such as health plans or health FSAs would continue to follow the eight year retention rule.

Article courtesy of NFP Benefits.