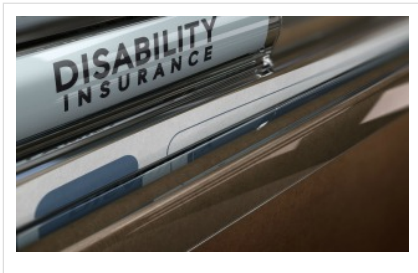


The challenges of terminating benefits for employees on disability

Kim Siddall | April 26, 2017



Canadian employers are generally familiar with dealing with employees with disabilities from the outset of a condition through to accommodation and helping them return to work successfully. But what happens to health and dental benefits when it's not possible for an employee to return to work?

It's a question that can be a difficult one for many employers. Should benefits continue until long-term disability payments terminate? What about employees who were young when they went on disability and only worked for the organization for a short period? Can an organization choose to stop providing health and dental benefits for

someone in poor health with high drug costs? How would providing health and dental coverage to all employees with disabilities until they reach the termination age of the long-term disability plan affect the sustainability of the benefits program?

Read: [How to successfully reintegrate a returning worker from disability leave](#)

With the rising costs of prescription drugs and an aging workforce, it's an area that's ripe for a thoughtful review. How an organization chooses to approach the issue is unique to its culture and benefits philosophy.

When an organization determines the parameters of continuing benefits for employees with disabilities, it should be aware of its obligations in determining service or vacation accrual, as well as pension contributions, regardless of whether the program is a defined benefit or defined contribution plan. The focus here, however, is on employee benefits: life insurance, accidental death and dismemberment, extended health and dental care. Most life and accidental death and dismemberment policies include a contractual provision that waives the requirement for premium payment but, upon approval, continues to hold the benefits in force throughout a disability.

A few contracts also include provisions to waive premiums for extended health and dental benefits. Such provisions, however, are relatively unusual. For most extended health and dental benefits, the decision to continue benefits during a disability is in the hands of the employer, as long as it meets the legal requirements. An employer could choose to continue the benefits for the entire length of the disability or a specified period of time, such as the own occupation period or according to a graded schedule based on the employee's service. As a result, it needs a well-written human resources policy to set out its intentions and practices.

Read: [How to handle a workplace accommodation](#)

The human resources policy that will govern continuation of benefits can also include the rules of engagement for disability management in general. A disability management policy should include the following aspects:

- The roles and responsibilities of both the employee and employer when an employee becomes disabled;
- The expected communication between both parties and the associated timelines;
- What's necessary in terms of medical notes, functional abilities forms or medical information and on what timelines. What happens if they don't meet the timelines?
- If the short-term disability program is a self-insured or salary continuance program, where the forms should be sent and what information is available about how benefits will be paid;
- How an employee's medical information is protected and who can access it;
- An outline of the employer's duty to accommodate and the roles the supervisor and employee will play in the return-to-work process;
- How long benefits will continue when an employee is disabled and whether there will be an expectation of employee contributions to the cost; and
- What happens when accommodation and return to work or retraining and redeployment within the organization isn't possible.

Read: [Why engagement is critical to managing short-term disability leaves](#)

The provision for continuation of benefits within a disability management policy should clearly state the approach for all employees should they become disabled. Doing so ensures fair and equitable treatment for all employees, helps manage expectations and makes clear the employer has a standard practice for all employees without discrimination.

Without a human resources policy, an employer must terminate employment before ending an employee's extended health and dental benefits. Terminating employment doesn't affect the employee's disability benefits, which will continue according to the terms of the contract, or life insurance or accidental death and dismemberment where a waiver of premium has been approved. Employers would do well to ensure the termination meets any legal obligations and should always consult their legal counsel before proceeding.

Read: [New report highlights correlation between LTD claims and the economy](#)

Human resource policies and practices around the continuation of benefits for disabled employees may also depend on a number of factors, including, but not limited to, the employment standards legislation in each province and territory; workers compensation legislation; case law; and the terms set out in employment and collective bargaining agreements. Regardless of the policies in place, it's important for employers to evaluate each case based on their own circumstances before terminating someone. It's particularly important for employers to ensure they've made efforts around accommodation and return to work and documented them.

While an organization is building its policy and practices around the issue, there are a number of administrative pieces to consider as well. First, terminating benefits with an insurer is usually the plan administrator's responsibility. An organization should ensure good communication between those managing disabilities and those dealing with benefits in order to ensure matters play out as intended. If employees share the cost of their health and dental benefits through contributions toward the premiums, an employer can continue that arrangement during disability as well. The employer will need to set out a plan for the collection of employee contributions in the absence of payroll deductions and what the procedure will be if employees fail to pay their share.

Read: [Government increases CPP pensionable earnings and adds new disability standards](#)

Employers that have employees currently on disability and don't have a policy in place regarding continuation of benefits should talk to legal counsel before taking any action. The employer may need to keep the current approach in place for employees already on disability and look at any new policy regarding benefits continuation as pertaining to future claims.

Kim Siddall is an associate vice-president with Aon. She has more than 20 years of experience in the health and benefits industry. These are the views of the author and not necessarily those of Benefits Canada.