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Questions Regarding Hardship Withdrawals and Loans from Retirement Plans

Help Your Employees Weather the Storm: Hardship Withdrawals and Loans from Retirement Plans

Like many people these days, some of your employees may be experiencing financial hardships and need access to the money in their retirement plans. Under certain circumstances, employees might be eligible for a loan or a hardship withdrawal from their retirement plan account. Below are questions you may have in helping your employees.

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Can my employees get a loan or withdraw money from their retirement plan?

Although they are not required to do so, many retirement plans offer loans and hardship withdrawals. Check your retirement plan documents, such as a copy of the plan or the summary plan description, to see if your plan provides loans and/or hardship withdrawals. Remember, the law does not permit loans from IRA-based plans, such as SEPs and SIMPLE IRA plans.

How can employees get a loan from their retirement plan?

If the plan allows loans, it will outline the procedures employees need to follow to get the loan. Typically, employees will need to fill out loan forms and sign a repayment agreement outlining the number, the amount, and the due dates of repayment. Employees must also pay interest on the amount borrowed, and may have to agree to repay the loan using automatic deductions from future wages. The plan may limit the amount of money employees can borrow, but the maximum amount that can be loaned is: 1) the greater of \$10,000 or 50% of the balance of the employee's retirement plan account; or 2) \$50,000, whichever is less. An employee's outstanding loans are taken into account when determining the maximum amount he or she can borrow.

What is the difference between a loan and a hardship withdrawal?

A loan is an amount employees can borrow from their retirement plan account and then pay back with interest. As long as the borrowed amount is repaid, it is not taxed, and the retirement account balance will be restored by the amount borrowed. Employees are not required to prove financial hardship to get a loan.

When are employees eligible for hardship withdrawals from their retirement plan accounts?

Your plan documents should state whether employees can make hardship withdrawals and under what circumstances. Typically, hardship withdrawals are only for unforeseeable emergency expenses that employees, their spouses, dependents, or beneficiaries are facing and are unable to pay using any other available resources, including loans from the retirement plan. Depending upon the type of plan you have, emergency expenses may include having to pay for: 1) medical bills; 2) funeral

A hardship withdrawal is an amount that employees can receive from their retirement plan account that they **do not** have to pay back. The amount withdrawn permanently reduces their retirement plan account balance. To be eligible for a hardship withdrawal, employees must meet the requirements of a hardship withdrawal as stated in your plan. Usually, this means the employees must prove they have an unforeseeable financial emergency and do not have any other available resources to pay for it. Employees will have to pay taxes on the amount withdrawn.



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expenses; 3) repairs to employee's primary home after a fire or other damage; 4) prevention of eviction or mortgage foreclosure; 5) tuition expenses; or 6) the purchase of employee's primary home.

Plans may limit the circumstances under which employees can get a hardship withdrawal and usually have specific procedures to obtain a hardship withdrawal.

Wellness on a Shoestring Budget

Wellness programs are proven to improve employee health, productivity and morale, and reduce healthcare costs. Despite these benefits, many companies simply do not have the resources to create a large, complex wellness program. If you fit into this category, there are some low- or even no-cost things you can do to improve the health and wellness of your employees. Try some of these suggestions on for size:

- ✓ Contact your healthcare insurer, a local hospital, or non-profit organization to come and provide presentations on living healthy lifestyles.
- ✓ Ask your health insurer what wellness resources they have available. They may offer Health Risk Appraisals (HRAs) at little or no cost.
- ✓ Create a wellness committee consisting of various employees. Have them create activities that can be done at the worksite to improve employee health, such as healthy eating days.
- ✓ Make your workplace smoke-free.
- ✓ Ask a local healthcare provider to give free immunizations.
- ✓ Provide healthy vending machine choices.
- ✓ Provide physical activity breaks during the day for your employees and encourage them to go outside for a quick run or walk.
- ✓ Encourage the use of the stairs.
- ✓ Provide a health-related newsletter or articles to your employees. Your LDP Consulting Group representative can provide you with a newsletter.
- ✓ Your LDP Consulting Group representative has many, many wellness resources available for your use. Call today!

FMLA Regulations are Final

On November 17, 2008, the Department of Labor (DOL) published its final rule to implement the first-ever amendments to the Family and Medical Leave Act (FMLA). The regulations provide new military family leave entitlements and generally update the regulations under the 15-year-old FMLA. The final regulations become effective January 16, 2009.

HIGHLIGHTS OF THE REGULATORY CHANGES IN THE FINAL RULE

Provisions in the final rule call for increased notice obligations for employers so that employees will better

understand their FMLA rights, while revising the employee notice rules to minimize workplace disruptions due to unscheduled FMLA absences. The final regulations also implement two important new military family leave entitlements for eligible specified family members:

- 1) Up to 12 weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, in support of a contingency operation; and
- 2) Up to 26 weeks of leave in a single 12-month period to care for a covered servicemember recovering from a serious injury or illness incurred in the line of duty on active duty. Eligible employees are entitled to a combined total of up to 26 weeks of all types of FMLA leave during the single 12-month period.

Other changes include the following:

Waivers. FMLA claims can be waived by employees without court or DOL approval.

Light Duty. Time spent performing light duty work does not count against an employee's FMLA leave entitlement.

Definition of Serious Health Condition. The new rules change the various definitions to impose time requirements on when the initial and second medical visits must take place, and defines periodic visits for chronic conditions.

Who May Contact the Employee's Doctor. HR professionals, health care providers, management officials – but never an employee's direct supervisor.

Recertification. Employer may request recertification of an ongoing condition every six months in conjunction with an absence.

Employer Notice. The time period for employers to provide the various notices is extended from 2 to 5 days.

Employee Notice. Employee notification must comply with the employer's usual procedures for reporting an absence, absent unusual circumstances.

The DOL predicts that the final rule will improve communication between employees, employers, and health care providers to make the law operate more smoothly, and provide needed clarity for both workers and employers about their responsibilities and rights under FMLA leave.

Diabetics Spend Thousands More on Medical Care

According to a new study by RTI International, people with diabetes spend thousands of dollars more on medical costs each year after the initial diagnosis. The study found that a 50-year-old newly diagnosed with diabetes spends over \$4,000 a year more on medical care than a 50-year-old without diabetes. Medical costs increase \$158 a year every year after an individual is diagnosed, and this does not include increased costs due to aging.

Many of these increased costs can be contained through proper diabetes management. Employers can

help employees manage their conditions, and in return their healthcare costs, in the following ways:

- Create a supportive work environment so that employees feel at ease managing their conditions (example: provide a private room for taking insulin shots or monitoring blood sugar.)
- Provide opportunities for all employees to live healthier lifestyles (i.e., lose weight, increase physical activity) to reduce the risk of developing chronic conditions, such as diabetes.
- Provide healthy food options at employee functions.
- Educate employees on prevention and early detection methods.
- Increase awareness of blood sugar control.
- Provide high quality medical care for people with diabetes. Then, educate your employees on the care that they have at their disposal by outlining their covered benefits, services and supplies needed to control the disease.
- Promote blood sugar management techniques for diabetic employees to keep glycemic levels near normal. This will improve their quality of life and will reduce healthcare costs.

Diabetes management programs are proven to be effective in the workplace. A 12-week study by the Wisconsin Diabetes Prevention & Control Program of 569 male employees who had type 2 diabetes revealed the following results after receiving diabetes management assistance from their employer:

- Employees were more productive on the job (99 percent versus 87 percent) and able to remain employed longer (97 percent versus 85 percent) than those who did not manage their blood sugar levels.
- The lost earnings from absenteeism were estimated at \$24 per employee per month for employees who had assistance managing their blood sugar levels, versus \$115 per employee per month for those who had uncontrolled blood sugar levels.
- Employees had fewer instances of needing bed rest and restricted activities than those who did not have diabetes management assistance.

Please contact your LDP representative for more information on any of these important issues.

The information contained in this newsletter is not intended as legal or medical advice. Please consult a professional for more information.