



JOHNSTONE'S JOURNAL is published monthly, and designed to provide topical information of interest not only to plan administrators, but to all employees who enjoy coverage under the benefit plan. Feel free to make copies, and use as a payroll stuffer.

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## Contract Employment Coverage is at Risk Without Proper Enrollment

### Contract Employment

Group benefits plans are arranged between an employer and an insurer to provide benefits to regular, full-time, year-round employees. In many cases, though, employers hire workers but do not put them on the company payroll. Instead, they may hire people on a contract basis.

There may be good business reasons for companies to hire a contract employee. However, not all contract arrangements are the same, so **be careful when promising coverage on your employee benefit program.**

### The Insurer's Test

In general, insurers provide coverage only to **employees** who are on payroll. Employees who are hired for a specific period (minimum of 1 year) can usually be treated as regular employees and are eligible for coverage during the term of the contract. Independent contractors—those who invoice the employer for services rendered—are not viewed as employees, and unless specifically addressed in the contract or by exception, are not entitled to benefits.

If the insurer has not agreed to provide coverage, there will be a significant problem **in the event of a claim such as life, disability or an emergency travel claim incurred out of Canada.** For example, if an employee becomes disabled and is found to be a contract employee (not listed in the company's payroll records) **the insurer will deny the claim** and there will be no way to appeal the case.

One of the insurer's main concerns is that disability coverage is based on income. Payroll employees have set statutory deductions, and their net income can be easily determined. Contract employees, on the other hand, accept income from the company and then use that income to pay expenses not normally associated with a regular employee (e.g. the cost of tools or equipment, the cost of office space and depreciation expenses). Additionally, there are complicating factors, such as spousal

income splitting arrangements, and often income from a number of companies. Because of these variables, insurers find it impossible to properly calculate the appropriate benefit level.

### Choices to Make

Most insurers will not ever offer disability coverage to contract employees. However, some insurers will consider providing health, dental and even life benefits when a solid argument can be presented that the contract employee is really an employee by another name.

This may apply to your company: if you believe a worker meets the test of being an employee (income source, location of work, ownership of tools, direction and supervision by the employer), we could ask the insurer to determine if they are prepared to allow the contract employee to enroll in the group plan. **This must be done before you offer coverage to the contract employee.**

If the contract employee cannot be insured, your company then has two choices:

- Change the contract employees' employment status and put them through the payroll. Your company subsequently becomes responsible for all the statutory benefits and source deductions (income tax, CPP, EI, WCB).
- Arrange to have contract employees purchase their own personal coverage for all benefits.

### Contractors With a Financial Interest

In some cases, the **contractor may have a financial interest in the company that provides the benefits** (or vice versa). If this is the case, we should explore endorsing the contractor's company to the master contract as an affiliated or associated company. The contractor's company will become a party to the master contract. This will mean that all sources of income the contractor receives will be insured. It also means that any employees of the contractor will also be eligible for coverage.

**Contact us if you have questions or concerns.**