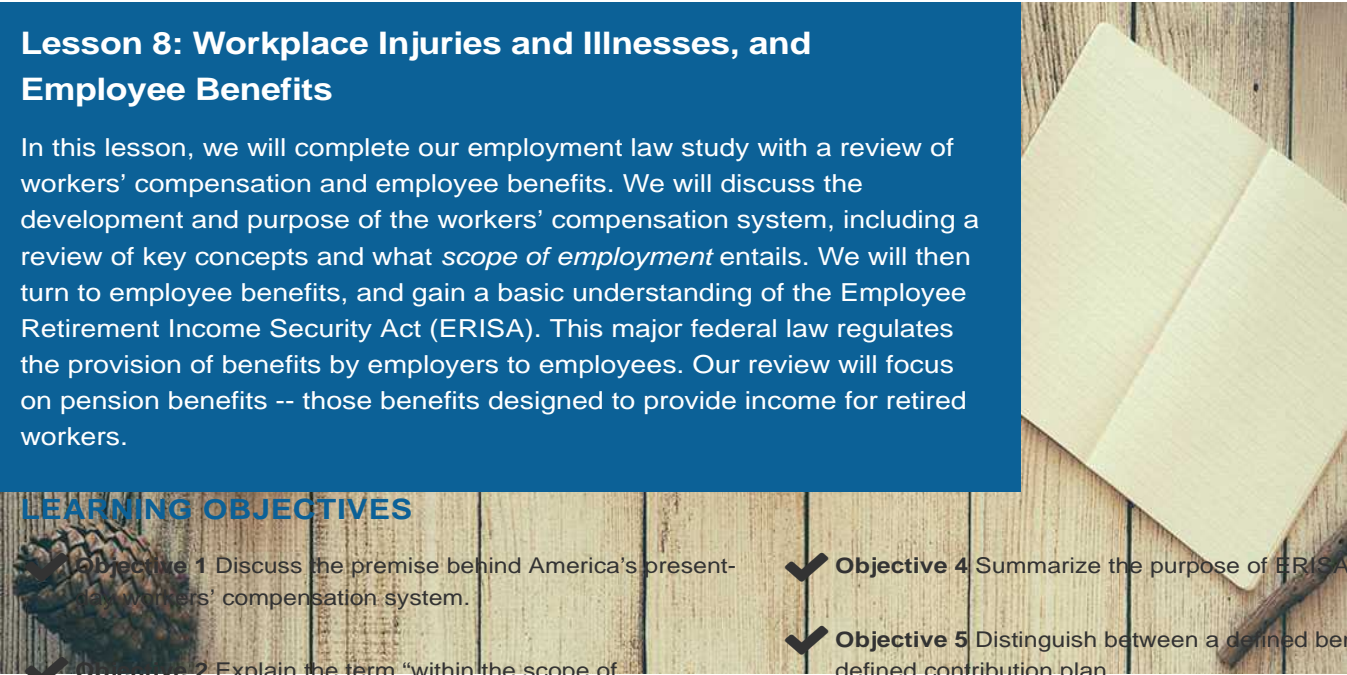


Lesson 8: Workplace Injuries and Illnesses, and Employee Benefits

In this lesson, we will complete our employment law study with a review of workers' compensation and employee benefits. We will discuss the development and purpose of the workers' compensation system, including a review of key concepts and what *scope of employment* entails. We will then turn to employee benefits, and gain a basic understanding of the Employee Retirement Income Security Act (ERISA). This major federal law regulates the provision of benefits by employers to employees. Our review will focus on pension benefits -- those benefits designed to provide income for retired workers.

LEARNING OBJECTIVES

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- ✓ **Objective 1** Discuss the premise behind America's present-day workers' compensation system.
 - ✓ **Objective 2** Explain the term "within the scope of employment."
 - ✓ **Objective 3** Define the term "no fault" as it pertains to workers' compensation.
 - ✓ **Objective 4** Summarize the purpose of ERISA.
 - ✓ **Objective 5** Distinguish between a defined benefit plan and a defined contribution plan.

Text Readings

Employment Law: New Challenges in the Business Environment, Chapters 21 and 22

Additional Readings

Required Readings

- Division of Federal Employees' Compensation (DFEC) (<https://www.dol.gov/owcp/dfec/regs/compliance/wc.htm>)
- Plan Administration and Compliance (https://www.dol.gov/ebsa/compliance_assistance.html)

Supplemental Readings

- U.S. Department of Labor (<https://www.dol.gov/>)
- Department of Occupational Safety & Health (<https://www.osha.gov/>)

Lecture Notes

Welcome to Lesson 8, our final lesson! We have covered a lot of ground in this course, and our last chapters cover legislation regarding workers' compensation and employees benefits.

Workers' Compensation Law

Workers' compensation law is a creature of state law, and changes the traditional structure of civil liability for personal injury. Prior to the advent of workers' compensation laws, a worker who suffered a workplace injury had to sue his or her employer or coworkers to recover losses. This meant finding an attorney and incurring the costs of litigation, as well as being subject to the whole range of common law defenses available in any personal injury action, such as *contributory negligence*, *assumption of risk*, and *fellow servant doctrine* (the injury was the fault of a coworker's actions). Clearly, the employee was at a significant disadvantage under this system. There were problems for the employer as well, including being subjected to a multitude of these cases and being at risk for large *compensatory* and *punitive damages* awards by juries.

The workers' compensation statutes were enacted to serve two purposes: (1) replace the old method with a more balanced, efficient system for compensating employees for workplace injuries; and (2) encourage employers to provide safe environments for their workers. These laws are essentially *no-fault statutes*. If the worker suffers an injury in the workplace or an illness caused by the work itself, he or she is entitled to a set amount of benefits and payment of medical expenses as a matter of course. In exchange for incurring *absolute liability* for injury or death, employers are immune from unintentional tort suits (Moran, J. J., 2014). These statutes have been adopted in all states. A small number of states make participation in the workers' compensation system optional. When participation is optional, statutes generally prohibit employers who do not participate from using the common law defenses, if they are sued by employees for *negligence*. Federal government workers come under the Federal Employees' Compensation Act.

Workers' compensation costs are significant for American businesses. Fraud is rampant on both sides of the aisle. Lawyers and physicians both engage in unethical and illegal practices. For example, a doctor who is known to side with injured workers will draft a report claiming a work-related injury where none exists or will exaggerate the extent of the injury. On the opposing side, employers will retaliate against injured workers by terminating them, which is prohibited. Employers get around this legality by watching the injured worker upon his or her return to work and documenting the slightest infractions with a "pink slip" to his or her personnel file – infractions that normally would not be documented. These two examples are not by any means exhaustive of the fraud that takes place. Containing and reducing these costs and fraudulent activities, most experts agree, requires preventing injuries, managing claims effectively by bringing injured workers back to work as quickly as possible, and managing medical costs. Make certain to read the "Employment Perspectives" in your textbook to see how employers and employees take illegal actions in the forms of discrimination and feigning work injuries, respectively (Moran, J. J., 2014).

Employee Retirement Income Security Act (ERISA)

Retiring with enough money to live on is a goal of all working individuals. Today, that worry is more relevant than ever, given the downturn of the economy. Many workers lost significant amounts of money that they had placed into 401(k) plans and IRA accounts. We will now turn our attention to a federal statute that protects all workers in the important area of retirement income and other employee benefits stemming from workplace service. Congress passed ERISA in 1974, primarily to address concerns regarding the protection of retirement benefits of workers who lost their jobs prior to retirement. Note that ERISA does *not* require employers to provide any benefits. Rather, it encourages employers to practice sound, fair management of retirement funds and provides them with tax benefits. The tax, participation, and other rules governing ERISA plans are too numerous and complex to be covered in detail in this lesson. However, all Human Resource professionals must have an understanding of the basics of this important law.

ERISA covers most private sector employee benefit plans. It does not cover plans established by governmental entities or churches. ERISA covers two types of benefit plans: welfare plans, including those that provide benefits for medical care, sickness, accident, disability, death, and severance from employment; and retirement plans, or those that provide retirement income to employees. In turn, there are two types of retirement plans: *defined benefit*, or those in which the amount the worker receives at retirement is defined upon entering the plan; and *defined contribution*, or those in which the worker has an individual account to which the employee, the employer, or both make contributions of funds and the amount of which account at retirement determines what the employee receives.

To stem the abuse of pension funds that occurred before the passage of ERISA, Congress established fiduciary standards. Those individuals who make decisions about the management of pension funds or who offer investment advice are considered *fiduciaries* and are held to a high standard of conduct

and loyalty to the plan participants. Fiduciaries must act in the best interests of the participants at all times. Fiduciaries can be held individually liable for a breach of duty.

ERISA issues often arise in connection with early retirement offers. Often, a worker is considering retirement but wants to be able to take advantage of any enhanced benefits offered in exchange for retirement during a certain time period. If a proposed plan offers greater benefits than the current plan, an employer has a fiduciary duty to notify all employees of the changes that might take effect once the employer has the proposal under *serious consideration*. Serious consideration exists where the employer has a specific proposal under review that is being discussed by senior management with the authority to implement the changes, and senior management is discussing the proposal for purposes of implementation. When a plan is arguably within this definition, managers and Human Resources staff must be careful not to misrepresent the situation to employees.

This course should have armed you with enough information to be both a responsible supervisor and employee! Good luck on your final writing assignment.

PowerPoint Lecture Notes

Use the lecture notes available in PowerPoint as you study this chapter by CLICKING THE LINK BELOW. These notes will help you identify main concepts and ideas presented in this chapter.

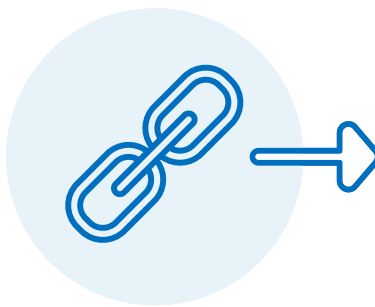
If you do not have PowerPoint on your computer, you can download a free viewer from Microsoft by clicking

here(<http://www.microsoft.com/downloads/details.aspx?FamilyID=048dc840-14e1-467d-8dca-19d2a8fd7485&DisplayLang=en>).

Chapter 21(https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_08/.../V3/PowerPoints/chapter21.ppt).

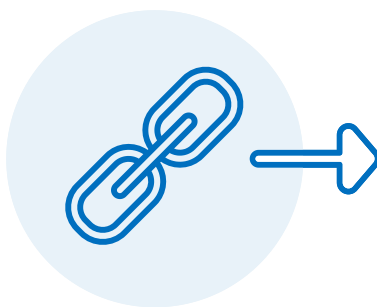
Chapter 22(https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_08/.../V3/PowerPoints/chapter22.ppt).

[07] Lesson 8 Exam



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[08] Assignment 8



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