



Wrap+® Claim Examples

The Travelers Wrap+ policy provides a variety of management liability and crime coverages to meet the insurance needs of private companies and non-profit organizations. The examples below highlight some scenarios of how coverage can protect you.

Fiduciary Liability

>Delayed transfer balance — \$1,250,000

A group of employees alleged that the newly selected outside plan administrator improperly delayed transferring fund balances in the plan from one investment option to another, as directed by the participants. Subsequently the employees sued the plan trustees to recover more than \$1,000,000 in lost investment income. Defense expenses were \$250,000.

>Failure to monitor investments — \$858,000

Legal action brought by employees alleged the wrongful elimination of a profitable investment option and improper selection of another and failure to monitor the actions of the outside investment manager. Defense costs were \$358,000 and the court awarded the plaintiffs \$500,000 in damages.

>Failure to provide information — \$350,000

Two employees approaching retirement age discovered they had never enrolled in the company's 401(k) plan. The employees sued the company and plan trustees alleging the plan administrator failed to properly advise them how to enroll and the enrollment was not automatic. The value of the alleged lost benefits exceeded \$150,000, and defense expenses were in excess of \$200,000.

>Failure to divest underperforming option — \$400,000

Plan participants alleged that the fiduciaries of a 401(k) plan had failed to divest the plan of an investment option that was not keeping pace with the performance of the comparable index and resulted in poor returns. The case settled for \$250,000 after \$150,000 in legal fees had been spent.

>Failure to disclose information — \$250,000

Employees sued the plan fiduciaries alleging that they breached their fiduciary duties by providing an option to invest in a guaranteed investment option backed by a poorly performing insurance company. They further alleged that plan fiduciaries breached their duty of disclosure by providing misleading or incomplete communications to participants. The case eventually settled for \$250,000.

>Excessive management fees — \$124,000

Department of Labor has alleged a wholesale electrical company violated ERISA by charging excessive management fees to the Plan. The burden of proof for compliance with all provisions of ERISA lies with the sponsor/ employer. In many of these cases, defense expenses can easily reach \$100,000 or more. Travelers Bond & Financial Products' Wrap+ Fiduciary Liability Policy protects both individual fiduciaries and plan sponsors for claims made for actual or alleged breached of fiduciary duty.

This material does not amend, or otherwise affect, the provisions or coverages of any insurance policy or bond issued by Travelers. It is not a representation that coverage does or does not exist for any particular claim or loss under any such policy or bond. Coverage depends on the facts and circumstances involved in the claim or loss, all applicable policy or bond provisions, and any applicable law. Availability of coverage referenced in this document can depend on underwriting qualifications and state regulations.

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Fiduciary Liability

>Breach of fiduciary duty — \$100,000+

A software manufacturer faced a claim for life insurance benefits. While the plaintiff was out of work on long-term disability, the insured made the decision to change life insurance carriers. During the transition, the insured neglected to identify the plaintiff as an employee. The plaintiff subsequently died, and the new life carrier denied coverage, citing a policy that only covered active employees. Since the death did not occur during the old policy period, the old carrier also denied the claim. A claim was subsequently made by the decedent's estate against the insured for the life insurance benefits. Travelers contributed to a settlement including contributions from both the old and new carrier.

>Failure to act in a timely manner — \$22,500

A former employee of an Internet services provider files a suit against the company, claiming they failed to transfer his 401(k) plan funds in a timely manner to a new plan when he resigned his employment, resulting in \$25,000 in losses. Travelers paid \$15,000 to settle the claim after paying \$7,500 in legal fees.

>> Breach of fiduciary duty — \$80,000

Two employees filed a lawsuit against a seed manufacturer, alleging they had been told they were automatically enrolled in the company 401(k) plan. The plaintiffs claimed their employer had a fiduciary duty to inform them of their non-enrollment and opportunity to enroll. Travelers paid \$80,000 in defense costs before summary judgment was granted in the insured's favor.

>Failure to pay — \$250,000

A Northeastern city's life insurance plan failed to submit the requisite forms for an employee's life insurance policy, but continued to deduct premium from the employee's paycheck. When the employee died, the life insurer denied the claim. The employee's heirs sued the plan fiduciary, and Travelers paid \$250,000 on behalf of its insureds to resolve the claim.

>Failure to transfer funds — \$25,000

The insured, a county retirement plan, was sued by a participant in its defined contribution benefit plan. The plaintiff claimed the defendants failed to transfer his funds in a timely manner to a new plan when he resigned his employment, resulting in \$25,000 in losses. On behalf of the insured, Travelers paid \$15,000 to settle the claim after paying \$7,500 in legal fees.

>Benefits Communication — \$1,000,000

A suit was filed by plaintiffs asserting they were eligible to participate in insured's sponsored employee benefit plans. The plaintiffs, landscapers, were hired as independent contractors during the summer, spring, and fall seasons, but argued that under the terms of the plan, they met eligibility requirements. The plaintiffs sought retroactive benefits, including matching contributions in the retirement plan, and earnings on those contributions. The court granted summary judgment to insured. However, Travelers paid over \$1,000,000 in defense costs on behalf of the insured.

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Fiduciary Liability

>Benefit premiums — \$500,000

Plan participants filed a complaint alleging that the insured, a governmental health plan, improperly paid a government agency for excess retiree health costs. Pursuant to an understanding between the plan and the governmental agency, the governmental agency was only required to pay premiums for benefits up to a certain dollar threshold. Thereafter, the insured was billed for the difference in benefits. The plan participants contend the plan had no obligation to pay for this difference. The plaintiffs alleged that the payment by the plan of at least \$45 million in excess retiree health costs constituted a prohibited transaction under the Illinois pension code and sought a refund by the governmental agency as well as a rescission of the resolution to reimburse. The case was ultimately dismissed, but not before Travelers paid over \$500,000 in defense costs on behalf of the insured.

>Failure to fund benefits — \$200,000+

A telecommunications firm maintained a self-insured health plan. When the company was forced into bankruptcy, employees sued officers and management of the company for failure to ensure that company funds would be used to pay outstanding medical benefits rather than general company obligations. Travelers defended the case, which ultimately resulted in a summary judgment in favor of the telecom firm. Travelers paid in excess of \$200,000 toward defense fees.

>Breach of fiduciary duty — \$120,000

The Department of Labor investigated a communications company for the methodology the company used in determining the allocation of Plan earnings and expenses between active and non-active participant accounts. The Department of Labor initially asserted losses in the range of \$317,000 to non-active participants' accounts. The case was settled by Travelers for \$120,000.00.

>ERISA violation — \$50,000

A private company pension plan trustee invested plan assets in an off-shore investment fund. When the investment lost 60 percent of its value, the plan trustee sued, claiming the investment fund misrepresented the nature of the investment. The off-shore investment fund counter-sued, alleging the plan trustee violated ERISA in making the investment. Travelers agreed to defend the counterclaim. Subsequently, the Department of Labor filed suit against the plan trustee for losses. Travelers entered into a settlement agreement with the Department of Labor for \$50,000, the investment loss caused by the trustee's breach of fiduciary duty.

>Failure to pay health care benefits — \$30,000

The parents of a deceased child sued a trucking company and a third-party administrator for payment of health care benefits by a local hospital. The third-party administrator, on review of hospital charges, reduced the charges by more than \$100,000. The suit alleged the failure to pay violated insured's fiduciary duty under ERISA. Travelers defended the suit and the case was dismissed after incurring \$30,000 in legal fees.

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Fiduciary Liability

>> **Benefits communication — \$150,000**

Six retired employees of a nonprofit consulting firm sued the firm, alleging entitlement to early retirement benefits. The plaintiffs alleged they relied on oral and written representations of the plan administrator, an employee in the human resources department. The plan document was alleged to be ambiguous, preventing a successful motion for summary judgment. Travelers provided defense to its insured and paid \$150,000 in resolving the dispute. *

*The applicable Wrap+ Private Company Directors and Officers Liability Coverage contract exclusion does not apply to insured persons. Further, the fraud and personal profit exclusion is not applicable unless there is a judgment against the insured and when it is applicable, it does not bar coverage of defense expenses.

>**Benefits eligibility — \$1 million+**

A group of independent contractors sued a company, asserting they were eligible to participate in the insured's sponsored employee benefit plans. The plaintiffs, who were accountants hired during the tax season, argued that they met the plans' eligibility requirements. The plaintiffs sought retroactive benefits, including matching contributions in the 401(k) plan and earnings on those contributions. The court granted summary judgment to the insured. However, Travelers paid more than \$1,000,000 in legal defense fees.

>**ERISA violation — \$50,000**

A private company pension plan trustee invested plan assets in an off-shore investment fund. When the investment lost 60 percent of its value, the plan trustee sued, claiming the investment fund misrepresented the nature of the investment. The off-shore investment fund counter-sued, alleging the plan trustee violated ERISA in making the investment. Travelers agreed to defend the counterclaim. Subsequently, the Department of Labor filed suit against the plan trustee for losses. Travelers entered into a settlement agreement with the Department of Labor for \$50,000, the investment loss caused by the trustee's breach of fiduciary duty.

>**Failure to provide disability coverage — \$550,000**

An employee enrolled in the long-term disability plan filed suit against a clothing store, alleging violations of ERISA, the Americans with Disabilities Act, and Title VII. Specifically, the plaintiff alleged the insured had wrongfully terminated her due to disability. Travelers afforded a defense. At trial, it was determined that the plaintiff was entitled to long-term disability benefits and that the insured had breached its duty in failing to fully consider all of the medical information. The case was appealed and was settled prior to a decision. In addition to significant defense costs of \$300,000, Travelers agreed to pay the plaintiff's attorney fees in the amount of \$250,000.

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