Chapter 19

Employer Error Corrections

A. Statutory and Insurance Policy Provisions

If an employee misses the open enrollment for Group Life Insurance coverage or later loses coverage due to an error made by the employer, Wis. Stats. § 40.70(7m) permits coverage to be reinstated without requiring that the employee provide evidence of insurability in certain circumstances.

As provided in the group life insurance policy, an application shall be approved beyond the thirty (30) day period after the employee becomes eligible without providing evidence of insurability if all of the following conditions are met:

1. The employer furnishes sufficient information to the Department of Employee Trust Funds (ETF) indicating the employer did not advise the employee of eligibility, provide an application form, submit premium payments, or perform other enrollment requirements;
2. The employee files a new *Life Insurance Application/ Cancellation/Refusal* (ET- 2304) provided by ETF which must be received by the employer within thirty (30) days after the employee first becomes aware of the employer error; and
3. ETF finds that the employee was denied coverage as a result of employer error as specified in Wis. Stats. § 40.70 (7m).

If the application is approved, coverage will become effective the first (1st) day of the calendar month on or after the date the employer received the application from the employee.

If the error cannot be corrected under the employer error provisions, the employee can apply for coverage by providing evidence of insurability and submitting an *Evidence of Insurability Application* (ET-2305).

The group life insurance policy also provides that an employee who receives from the employer a written statement of fringe benefits indicating that the correct amount of coverage is not in effect or the correct premium deduction is not in effect is presumed to be aware of the error unless other evidence shows that the employee could not reasonably discover the error by inspecting the statement.

The employee is required to review his or her payroll deductions for life insurance premiums and bring payroll deductions errors to the attention of the Department. In instances where the employee filed an application with the employer during the eligibility period and due to a clerical error by the employer the premiums were not payroll deducted, premiums are due from the date that the application took effect as provided in the policy.

In instances where premium payment was instituted but a properly completed application was not received by the employer within thirty (30) days after the employee's eligibility date and filed with ETF, the employee's premiums will be refunded since there is no coverage.

B. Types of Employer Errors That Can Be Corrected

The following chart illustrates some of the more common errors made by employers and provides tips on how to avoid these types of errors. While this chart provides examples of employer errors, it is not all-inclusive.

Types of Employer Errors:	How to Avoid These Types of Errors:
Failure to provide life insurance information or an application to the employee within 30 days after the employee becomes eligible for coverage.	Employers are encouraged to use the *New Employee Benefit checklist* (ET-2572), to help verify that all benefit information and applications were provided to an employee. Employers should receive a completed *Life Insurance Application/Cancellation/Refusal* (ET-2304) form from all eligible employees, even if the employee is electing to decline coverage.
Excludes employee based on misinterpretation of eligibility or systematically excludes groups of employees. (Employee includes full-time, part-time, limited term, temporary, project, seasonal, non-represented, substitute teachers, library aides, etc., irrespective of bargaining unit agreements.)	Employers must offer life insurance coverage to all employees provided the employee: • Is covered by the WRS (or the employer's qualified private pension plan for non-WRS employers) AND • Is under age seventy (70) on the date that coverage becomes effective.
Unaware of WRS eligibility date, and reports WRS enrollment late.	Employers should continually monitor an employee's work hours when the employee is determined not to be initially eligible for WRS. (Refer to the *WRS Admin Manual* (ET-1127)). **Note:** All WRS eligible employees must be offered life insurance coverage. The employee must apply within thirty (30) days after insurance eligibility.

In instances where the employee filed an application with the employer during the eligibility period and due to a clerical error by the employer the premiums were not payroll deducted or the application was not submitted to ETF, premiums are due from the date that the application took effect as provided in the policy. It is not necessary to obtain a new application or send an employer error letter to ETF in this situation. The initial application received by the employer during the eligibility period should be submitted to ETF.

C. How to Correct an Employer Error

When the employer becomes aware that an employee does not have coverage due to employer error, the employer must:

1. Immediately notify the employee of the error in writing and provide the employee with a new *Life Insurance Application/Cancellation/Refusal* (ET-2304) form. The employee must return the application to the employer within thirty (30) days after being informed of the error. Once coverage has lapsed, a new application is always required to reinstate coverage.

2. Send the application to ETF accompanied by a letter explaining the error.

   The letter should answer the following questions:

   a. What is the exact nature of the error?
   b. What evidence exists to show that the employer, not the employee, was responsible?
   c. Did special circumstances cause the error to be made?
   d. How and when was the error discovered?
   e. What was done once the error was discovered?
   f. What corrective action has the employer put in place to ensure that this type of error does not reoccur?

Employers may initiate premium deductions when an application is filed under employer error. Although premiums may be deducted from an employee's salary, coverage is not guaranteed until ETF approves it. Premiums will not be included in your life insurance bill until coverage is approved by ETF.

ETF will notify both the employer of approval or denial of the coverage. If approved, coverage will become effective the first day of the calendar month on or after the date the employer received the application from the employee. The employer must refund any premium deductions made if coverage is not approved.

D. Errors Not Eligible for Correction

The employer error provisions do not apply to errors primarily due to the employee's action or inaction. Examples of such situations include:

- Employee is given application materials but forgets to submit completed application.
- Employee receives written notice of fringe benefits coverage from the employer but fails to report coverage discrepancies to the employer.
- Employee cancels coverage or inadvertently cancels more coverage than was intended. (A cancellation can be rescinded only before the effective date of the cancellation.)
- Employee terminates employment and fails to apply for continuation of coverage within thirty-one (31) days after active coverage ends.

Note: In no event can coverage be reinstated after the employee terminates employment or dies.

If the error cannot be corrected under the employer error provisions, the employee can only obtain coverage by furnishing satisfactory evidence of insurability prior to reaching age seventy (70).

E. Deadline for Reporting Employer Error

Errors are resolved individually and there is no single deadline that applies in all circumstances. Employers must use the annual renewal census to verify all employee coverages. Many employees receive an annual benefits statement showing insurance coverage. Employees should promptly report any discrepancy to the employer. If the error is not discovered at the time of the next renewal census or annual benefits statement, the employer must explain any special circumstances that prevented prompt detection of the error.