



Summary Plan Descriptions (SPDs) under ERISA

Understanding ERISA's requirements for furnishing a Summary Plan Description for welfare benefit plans

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Most employers and benefits professionals are familiar with the federal Employee Retirement Income Security Act—or ERISA. Enacted in 1974, the main goal of ERISA is to ensure that all employees and dependents covered by a company's benefit plan receive the benefits that have been promised to them.

ERISA applies to virtually all private-sector employee benefit plans. The only types of employers exempt from ERISA are churches and government entities. Benefit plans subject to ERISA include:

- Pension benefit plans (retirement plans)
- Welfare benefit plans (such as health and life insurance, disability income insurance and accidental death and dismemberment [AD&D] plans)

One of the key requirements of ERISA as it applies to welfare benefit plans furnishing a Summary Plan Description, or “SPD,” to plan participants.

Ensuring proper plan documentation

Under ERISA, essentially every type of employee benefit plan must be detailed in a written Plan Document. The Plan Document describes the operation and administration of the plan.

Additionally, an SPD must be provided to all eligible participants. “Participant” means an employee or former employee of any group who is, or may become, eligible for benefits under an ERISA plan, or whose beneficiaries are or may be eligible for benefits.

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The plan administrator (typically, the employer is the plan administrator for single-employer plans) is responsible for furnishing the SPD and any required modification documents. This is true even when an outside party—such as an insurance carrier or third-party administrator—is contracted to prepare the actual SPD document.

What does the SPD cover?

The SPD's primary purpose is to inform plan participants and beneficiaries of their benefits, rights and obligations under the plan. Accordingly, ERISA requires that the SPD be written in a manner understandable to the average plan participant.

Among other requirements, a welfare benefit plan SPD must address or contain a description of all of the following items:

- Plan-identifying information
- Eligibility requirements
- Benefits
- Circumstances that may result in loss or denial of benefits
- Amendment and termination provisions
- Subrogation provisions (if any)
- Contribution requirements and funding mechanism(s)
- Claim procedures
- Statement of plan participants' and beneficiaries' rights under ERISA

Certain additional items should or must be addressed in an SPD for a group health plan. The insurance policy, certificates or other descriptions of coverage provided by an insurance company usually do not contain all of the items required in an SPD. In this case, plan administrators need to look beyond the materials provided by the insurance company in order to comply with ERISA's requirements for furnishing an SPD.

Creating an SPD using a “wrapper”

Fortunately, a plan administrator may supplement the insurance certificates or other description of benefits provided by an insurance company with a “wrap” or “wrapper” that includes the additional information required by ERISA. Together, the insurance certificates or other description of benefits provided by an insurance company and the wrapper can be used to satisfy ERISA's SPD requirements. In some cases, multiple benefit plans may be bundled in a “mega-wrap” or “umbrella” SPD.

While some insurance carriers can provide a template for an SPD wrapper, it is ultimately the responsibility of the plan administrator to ensure that the SPD complies with ERISA guidelines and to distribute the document to all participants.

Delivery of the SPD

Generally, an SPD should be furnished within 90 days after a participant first becomes covered under the welfare benefit plan. For new plans, the SPD must be provided within 120 days after the plan first becomes subject to ERISA. ERISA does not provide detailed guidance for how the SPD should be delivered to participants. It only requires that SPDs be furnished in a manner “reasonably calculated to ensure actual receipt of the material,” using a method “likely to result in full distribution.”²

A “wrap” or “wrapper” supplements a group insurance policy, providing the details needed to create the ERISA-required SPD.

ERISA requires any “material” modification in the terms of a benefit plan to be reported to plan participants within specific time frames.

Modification or amendment of a benefit plan

ERISA requires any “material” modification in the terms of a benefit plan (including any change in the information required to be in the SPD) to be reported to plan participants within specific time frames. However, rather than issuing a new SPD, ERISA allows plan administrators to report such changes through a summary of material modifications, which describes only the modification or change.

Know your responsibilities

Be sure to review your employee benefit policy information and identify all SPD components. If additional documentation is needed for your group insurance plan, talk with your legal counsel to find a solution that works best for your employee population.

For more information on how ERISA affects your group insurance plan, talk with your group benefits representative.

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¹ “Reporting and Disclosure Guide for Employee Benefit Plans,” U.S. Department of Labor, September 2017, accessed October 27, 2022, <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebbsa/our-activities/resource-center/publications/reporting-and-disclosure-guide-for-employee-benefit-plans.pdf>

² 29 CFR §2520.104b-1(b), December 15, 2022, <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XXV/subchapter-C/part-2520/subpart-F/section-2520.104b-1>



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