



➤ April 13, 2022

BASIC ERISA Essentials

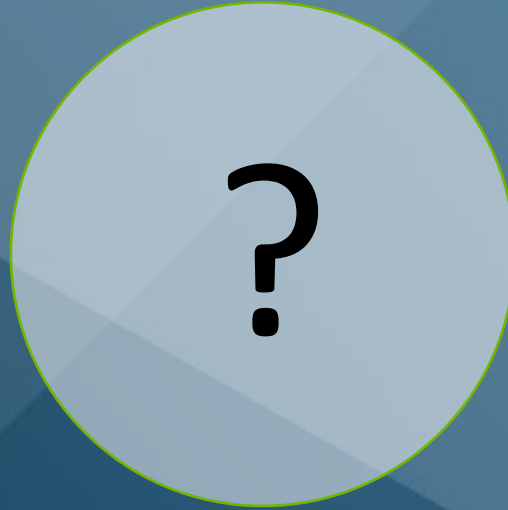


Presentation By:
Dina Miller

Before We Begin



We are recording today's webinar



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Coast to Coast Administration



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ERISA



- What is ERISA?
- Why ERISA – Main Goals
- Who has to comply with ERISA?
- Plans subject to ERISA
- Documents/Notices under ERISA
- Penalties for non-compliance
- BASIC ERISA Essentials

➤ What is ERISA?

- The Employee Retirement Income Security Act of 1974 is a federal law that sets minimum standards for most employer-sponsored plans (pension and welfare)



ERISA Policy Goals

- Primary focus at enactment of ERISA was to protect retirement savings from mismanagement and abuse
- Welfare benefit protection was a secondary purpose; however, the declaration of the policy to protect the interests of participants and beneficiaries applies
 - Requires transparency and accountability
 - Ensures participants have access to information about plans

➤ Who Must Comply With ERISA?

- ERISA applies to most employee benefit plans sponsored by employers
- Employers with a group health plan
 - 2 – 99: Must comply with SPD/SMM
 - 100+: SPD/SMM and 5500
- ERISA does not apply to the following plans:
 - Government plans
 - Church plans
 - Plans that exist solely to comply with workers' compensation, unemployment compensation, or state disability insurance plans

Benefits Subject to ERISA

- Medical, Prescription Drug (Rx), Dental and Vision (self-funded and fully insured)
- Health Reimbursement Arrangements (HRA)
- Employee Assistance Plans (EAP) providing counseling benefits (no referral only)
- Short-term disability (STD)
- Long-term disability (LTD)
- Group Term Life insurance
- Accidental death and dismemberment (AD&D)
- Flexible Spending Arrangements (FSA), medical spending portion only
- Telemedicine

Benefits Not Subject to ERISA

- Plans sponsored by governments or churches ... but be careful with church plans
- Voluntary Plans – Whether or not a plan is voluntary is subject to facts and circumstances
- Many short-term disability plans
- Health Savings Accounts (HSA) generally not subject to ERISA

Voluntary Plan Operation for ERISA Exemption

- NO EMPLOYER CONTRIBUTIONS ALLOWED
- Employer cannot “endorse” the program
- Employee participation must be completely voluntary
- Involvement must be limited to permit the insurer to publicize the program, collect premiums by after-tax payroll deduction, and remit premiums to the insurer

Voluntary Plan Operation for ERISA Exemption

Facts that may lead to a determination that the plan is subject to ERISA:

- The employer's name is used in communications with employees
- The benefit associated with other employer sponsored plans
- The employer selects and recommends the benefit to employees
- Benefit materials include a statement that the program is subject to ERISA
- The employer assists employees with claims or disputes
- The employer allows pre-tax deductions for benefits under a cafeteria plan

➤ WRAP Plan Document

Description

- All ERISA covered benefit plans, including group health plans and other welfare plans must, by law, be administered in accordance with a written plan document.
- ERISA, HIPAA and other Federal Laws require the plan document to contain certain specific provisions.

What to do

- It is to be kept in your files, along with the benefit booklets and insurance certificates for each benefit.

➤ SPD & Summary of Material Modification

SPD Description

- Summary of the provisions of the plan in language understandable to the average participant; gives details on the administrative operations of plan, claim procedures, and statement of ERISA-protected rights.

SMM Description

- Summary of any material modification to the plan and any change in information required to be included in the SPD.



SPD & SMM Penalty

- A penalty of up to \$110 a day per request for a plan administrator's failure to furnish requested information within 30 days, unless failure results from matters reasonably beyond the plan administrator's control. (***ERISA §502(c)(6)***)

➤ Summary of Benefits and Coverage (SBCs)

Description

- Documents received from your Medical, Dental & Vision Carriers that describe the benefits & coverages.

Who Must Furnish

- The Employer is responsible for distribution to eligible participants.

When Provided

- At initial enrollment and then reissued each year thereafter.

Penalty

- A willful failure can trigger a \$1,264 penalty for each affected individual.



ERISA/PPACA Model Notices

- **Description:**
 - ERISA and the Affordable Care Act requires group health plans to provide a number of information notices to employees and other individuals eligible for benefits under the plan.
- **Who Must Furnish:**
 - The Employer is responsible for distribution to eligible participants.
- **When Provided:**
 - Some are annual and others are at different times of the year

Tax Filings & Reports

**Form
5500**

Annual Return/Report
of Employee
Benefit Plan

**Summary
of Annual
Report**

An annual statement in
narrative form that
summarizes the latest
annual report (5500)
for the plan

PCORI

Groups that have a self-insured
plan or a self-insured HRA you
are required to pay the PCORI
Fee and “may” have to pay the
fee if the Employer contributes
to the employees Flex.



5500 Penalties

- As of January 15, 2022, the DOL per day penalty for failure to properly file an annual report has increased from \$2,259 to \$2,400 with no maximum.
- Delinquent Filer Voluntary Correction Program (DFVCP)
 - \$10 per day up to maximum of \$2,000 per plan per year with maximum of \$4,000 per plan



➤ ERISA Essentials - We've got you covered!

- WRAP Summary Plan Description (SPD)
- Plan Document
- Summary of Material Modification (SMM)
- ERISA/PPACA Required Model Notices
- PCORI 720 Form Instructions
- Form 5500 & Filing if applicable
- Schedule A & C and Summary Annual Report (SAR) if applicable
- Non-Discrimination Testing (additional charges apply)
- Assigned Compliance specialist

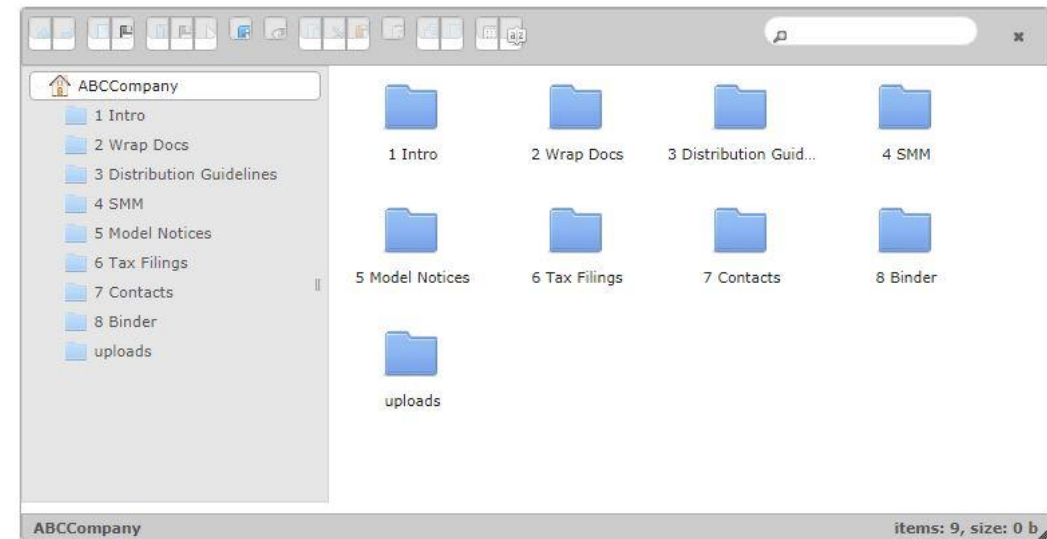


➤ Compliance Portal



24/7 access to your **secure**
online **ERISA** documents

File Repository



➤ Compliance Blog

The Importance of a WRAP SPD

Posted on July 26, 2018 by ERISA Compliance in WRAP SPD

What exactly is an SPD? An SPD (Summary Plan Description) is a reader-friendly document that informs ERISA welfare benefit plan participants about their plan and how it operates. It's an extremely helpful tool for both employers and employees. It simplifies the administrative burden an employer is normally forced to carry, and makes the form 5500 filing process much easier. It also gives employees detailed information about their benefits which can prevent missteps in the future. **Which employers need an SPD and why?** Private sector employers of any size who sponsor an ERISA welfare benefit plan are required to provide an SPD to all eligible employees who participate in the plan. A welfare benefit plan includes health, dental, vision, life, disability plan, FSAs, HRAs and employee assistance programs (EAPs). **What makes an SPD special?** Often, employers...

CMS Disclosure

Posted on February 13, 2018 by ERISA Compliance in Medicare Part D

As part of the disclosure requirements under Medicare Part D, employer-sponsored group health plans that offer prescription drug coverage to Part-D eligible individual are required to submit an electronic disclosure notice to the CMS on an annual basis, reporting whether that coverage is creditable or non-creditable. A plan sponsor must submit a new disclosure to CMS no later than 60 days after the beginning of each plan year-i.e. **by February 28, 2018 for calendar year plans**. This requirement applies not only to employer-sponsored retiree health plans but to employer-sponsored plans extended to active employees and their covered spouses who are enrolled or are Medicare-eligible. Disclosure is made online using the Disclosure to CMS Form available on the CMS website ("Disclosure to CMS Form"). In addition to the annual disclosure, plan sponsors must submit...



ERISA Document Overview

“Cheat Sheet” for Documents and Notices



Document	Type of Information	To Whom	When
Required Documents for all Group Welfare Benefits			
Summary Plan Description	Primary vehicle for informing participants and beneficiaries about their plan and how it operates. Must be written for average participant and be sufficiently comprehensive to apprise covered persons of their benefits, rights, and obligations under the plan. Must accurately reflect the plan's contents as of the date, not earlier than 120 days prior to the date the SPD is disclosed.	Participants and those pension plan beneficiaries receiving benefits.	Automatically to participants within 90 days of becoming covered by the plan and to pension plan beneficiaries within 90 days after first receiving benefits. However, a plan has 120 days after becoming subject to ERISA to distribute the SPD. Updated SPD must be furnished every 5 years if changes are made to SPD information or plan is amended. Otherwise, it must be furnished every 10 years.
Summary of Material Modification	If a plan makes a material modification in any of the plan terms that would affect the content of the SBC that is not reflected in the most recently provided SBC, the plan must provide notice of such change. This does not apply to changes that occur in connection with a renewal or reissuance.	Participants and beneficiaries.	Notice must be provided no later than 60 days prior to the date on which the modification will become effective.
Required Documents for most Group Welfare Benefits with more than 100 participants			
Summary Annual Report	Narrative summary of the Form 5500.	Participants and those pension plan beneficiaries receiving benefits. For plan years beginning after December 31, 2007, the SAR is no longer required for defined benefit pension plans to which Title IV applies, and which now instead provide the annual funding notice.	Automatically to participants and pension plan beneficiaries receiving benefits within 9 months after end of plan year, or 2 months after due date for filing Form 5500.



Document	Type of Information	To Whom	When
If your Plan is Grandfathered, the following Health Plan Notices are required			
Grandfathered Plan Status	Notice must disclose that the plan is grandfathered and must include contact information.	Participants and beneficiaries.	Notice must be included in any plan materials describing the benefits or health coverage.
Women's Health and Cancer Rights Act (WHCRA)	Notice describing required benefits for mastectomy-related reconstructive surgery, prostheses, and treatment of physical complications of mastectomy.	Participants.	Notice must be furnished upon enrollment and annually.
Children's Health Insurance Program Reauthorization Act (CHIPRA)	Employer (rather than plan) must inform employees of possible premium assistance opportunities available in the state they reside.	All employees regardless of enrollment or eligibility status.	Notice must be furnished annually.
HIPAA Notice of Privacy	Notice that provides a clear, user-friendly explanation of individual rights with respect to their PHI and the privacy practices of health plans and health care providers, including how the PHI may be used and disclosed, the individual's rights with respect to the PHI, and who to contact for further information.	Participants covered by the plan (a single notice to the health plan's covered individual is effective for all dependents covered through the insured participant); Any person who asks for it.	New enrollees at the time of enrollment; Provide a revised notice to individuals covered by the plan within 60 days of a material revision; Notify individuals covered by the plan of the availability and how to obtain the notice at least once every 3 years; Notice must also be posted on entity website and be available electronically through said website.

Before Q&A



Slides are available in the Handouts section



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QUESTIONS





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