



News & Types: Employment, Labor & Benefits Update

Insurance Carrier Certificates of Insurance Do Not Meet the Content Requirements for a Summary Plan Description

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Practices: Employment, Labor & Benefits

EXECUTIVE

SUMMARY

The Employee Retirement Income Security Act (“ERISA”) requires that most employee benefit plans automatically furnish participants and beneficiaries a Summary Plan Description (“SPD”) within 90 days after the participant first becomes covered under the plan, and at least every 5 years thereafter if there have been any material changes to the plan within the five-year period. The required SPD must be written in a manner calculated to be understood by the average plan participant and include some very specific plan coverage and administrative information. Unfortunately, many plan sponsors mistakenly believe that the certificates of insurance coverage (life, medical, dental, etc.) provided by their group insurance carriers meet the SPD content requirements. In reality, most insurance carrier certificates of insurance do not meet the SPD content requirements and must be “wrapped” to add these additional provisions. Failure to provide the SPD to a participant or beneficiary can result in penalties of up to \$110 per day against the plan sponsor. If the DOL makes the request for the SPD and the plan sponsor fails to provide it, a penalty of up to \$152 per day can be assessed against the plan sponsor.

In accordance with ERISA and Department of Labor regulations, plan administrators are required to furnish a SPD to participants and beneficiaries. Among other requirements, the regulations state that SPDs must contain the following information: (a) name of the plan, and, if different, the name by which the plan is commonly known by its participants and beneficiaries; (b) the name and address of the employer whose employees are covered by the plan; (c) the employer identification number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the plan number assigned by the plan sponsor; (d) the type of welfare plan (life, medical, dental, etc.); (e) the type of administration (contract, insurer) of the plan; (f) the name, business address and business telephone number of the plan administrator; (g) the name of the person designated as agent for service of legal process, the address at which process may be served on such person, and a statement that service of legal process may be made upon a plan trustee or the plan administrator; (h) the name, title and

address of the principal place of business of each trustee of the plan; (i) if a plan is maintained pursuant to one or more collective bargaining agreements, a statement that the plan is so maintained and that a copy of any such agreement may be obtained by participants and beneficiaries upon written request to the plan administrator; and (j) the plan's requirements respecting eligibility for participation and for benefits.

Additionally, summary plan descriptions must describe the plan's provisions relating to eligibility to participate in the plan, provide a statement describing any other conditions which must be met before a participant will be eligible to receive benefits, and include a description of any cost-sharing provisions, including premiums, deductibles, coinsurance, and copayment amounts for which the participant or beneficiary will be responsible, any annual or lifetime caps or other limits on benefits under the plan, and a statement clearly identifying circumstances which may result in disqualification, ineligibility, or denial, loss, forfeiture, suspension, offset, reduction, or recovery of any benefits that a participant or beneficiary might otherwise reasonably expect the plan to provide.

Action Steps: The above information is a brief summary of the SPD content requirements. Other provisions are also required. In short, because most certificates of insurance provided by group insurance carriers do not contain many of the above provisions, we recommend that all clients first, determine whether they have SPDs or only possess a certificate of insurance and, if not, "wrap" their plan documents with any and all of missing provisions via a separate "wrap document." Although there are no penalties for simply failing to prepare a SPD, if a participant or beneficiary makes a written request for the SPD and the plan sponsor fails to provide it within 30 days after receiving the written request, a penalty of up to \$110 per day can be assessed against the plan sponsor. If the DOL makes the request for the SPD and the plan sponsor fails to provide it, a penalty of up to \$152 per day can be assessed against the plan sponsor.