



PROFESSIONAL GROUP PLANS
Specializing in Employee Benefits

COMPLIANCE CONNECTION

PD Release 1

Plan Documents and SPD's

What is a Plan Document?

The plan document is a **comprehensive written instrument describing the operation and administration of an employer's plan**. The plan document is written in legalese and may be difficult for the average participant to read and understand.

ERISA Section 402 requires that benefits plans subject to the regulations must be established and maintained according to a written instrument. The written plan document must clearly identify certain basic information about the plan, including the following:

- The named fiduciary who will have the authority and responsibility to administer the plan.
- Procedures for amending and terminating the plan.
- The source of plan contributions.
- The allocation of responsibilities for the operation of the plan between the employer and the insurance carrier or third-party administrator.

The plan document tells the plan participants about the benefits they are entitled to under the plan and provides guidelines to be used by the plan administrator in decision-making when it comes to plan operations. **The Plan Document is not required to be distributed to the participants unless requested.** Because it provides more detail than the SPD it should be referred to when administering the plan.

What is a Summary Plan Description?

The summary plan description (SPD) is **simply a summary of the plan document required to be written in such a way that the participants of the benefits plan can easily understand it. Unlike the plan document, the SPD is required to be distributed to plan participants.** ERISA provides specific guidelines regarding the required content of the SPD and the required style and format. Because the SPD is summarizing the plan document, the plan document must encompass the content required for the SPD.

Why are "Wrap" Documents Used?

Confusion often arises for employers with fully insured plans as the insurance carrier does not provide the ERISA plan document or the SPD. This is the responsibility of the plan administrator. The insurance carriers typically provide employers with a master contract, certificate of coverage or summary of benefits, and employers may mistakenly assume this meets the ERISA requirement. However, this is not the case. These insurance-provided documents contain some but not all of the content required under ERISA. Therefore, in practice, "wrap" documents are combined with the insurance-provided documents to meet the ERISA requirements. This means the employers will wrap the insurance documents with the missing content required under ERISA.

Who Receives the SPD?

The Plan Sponsor of a welfare benefit plan is required to furnish SPDs to participants covered under the plan, including current employees, COBRA qualified beneficiaries, and covered retirees. A former employee who remains eligible for benefits under the Plan should also receive the SPD.

DOL regulations state that the Plan Administrator of a welfare benefit plan does not need to issue the SPD to beneficiaries (e.g. spouses and dependents). However, a beneficiary can receive a copy after a written request.



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Additionally if an active enrolled employee passes away and the dependents continue to receive benefits, the Plan Administrator should furnish the SPD to the dependents.

When to Issue SPDs:

- Within 90 days of initial coverage (i.e new hires)
- Within 120 days after plan is established
- Every 5 years an updated SPD must be prepared and distributed
- Every 10 years if no changes were implemented
- Upon Request

How to Distribute

Method 1

Issue a notice that an electronic disclosure is to be made and then submit electronically for employees who have access to work-related computers as an integral part of their duties. A system must be in place to ensure furnished documents are received.

Method 2:

If there is no access to work-related computers, a participant must consent to electronic disclosure or the Plan Sponsor is mandated to provide paper copies [via first class mail, in person (log is to be kept)], etc.

Making Changes and When to Notify of the Changes

Plan Administrators can modify plan documents that are less than five years old by preparing an Amendment to the plan document and a corresponding Summary Material Modification (SMM) that is appended to the SPD.

The SMM must be distributed to plan participants:

- Within 90 days of initial coverage (i.e. new hires)
- Within 120 days after the plan is established
- Every 5 years an updated SPD must be prepared and distributed
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→ ERISA Plan Document and SPD Contents

Some of the Details Found in the Plan Document

- Plan Name*
- Original Effective Date*
- The Plan Administrator*
- The Plan Sponsor*
- Named Fiduciary*
- Eligibility & Enrollment Requirements
- Insurance Policy(s), its Policy number and type of benefit*
- Self-funded benefits if applicable*
- COBRA, HIPAA and ACA provisions
Self-funded benefits & Contract Administrators
- Termination of Coverage
- Claims and Appeals Procedures
- ERISA Notices mandate

* Details also reported on the Form 5500

Some of the Details Found in the SPD

- Plan Name and type of Plan*
- Original Effective Date*
- Plan Year and Number*
- Plan Sponsor & Administrator*
- Funding Method*
- Plan Sponsor EIN #*
- Eligibility & Enrollment Requirements
- Insurance Policy(s), its Policy number and type of benefit*
- Self-funded benefits & Contract Administrators*
- Termination of Coverage
- COBRA, ACA and HIPAA provisions
- Termination of Coverage
- Claims and Appeals Procedures
- ERISA Notices mandate
- Statement of ERISA Rights

Form 5500 Note: Many of the questions asked by clients can be answered by the ERISA Plan Document and/or the SPD. These legal documents, mandated to be in place when benefits are provided by the Plan Sponsor, are the best road maps on what details are to be listed within the Form 5500 report.



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How to Get Started

The first step is to determine the status of the Plan Document/SPD.

- Is a document in place?
- Is it compliant?

The second assignment is to determine the current benefit plan structure. We will help with the review and provide advice during every step of the process:

- How many Plans are there for a Plan Sponsor?
- What is the Plan Name, Plan Year and Plan Number?
- What is the employer type?
- Are all benefits bundled/wrapped together or are they standalone benefits?
- What are the funding mechanisms in place?
- Which benefit(s) is/are part of the Plan?
- Who are the Plan participants?
- Who is to receive a SPD?

Once this information has been gathered, the Plan Document and SPD can be built and then the SPD can be distributed to participants. We recommend consulting an ERISA attorney to incorporate the more complex elements in the Plan Document and SPD.

Additional resources are available to help reduce the administrative burden involved in preparing these documents such as an ERISA Wrap Document. We will educate you on all of your options and work with you to find the right approach to meet your needs.

We are here to help
educate and guide
you to the most
appropriate approach
for producing these
legally mandated
documents

*Information in this document is general in nature and not intended to replace legal advice in any particular manner.

Contact Us With Any Questions

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