

Employer Benefit Compliance



Health SPD Compliance Checklist



Furnish to	When to furnish	How to distribute	Citation	Penalty
<ul style="list-style-type: none"> Covered employees (but generally not spouses or dependents) COBRA qualified beneficiaries Child/parent-guardian under QMCSO Spouse/dependent of deceased retiree Guardian of incapacitated person 	<ul style="list-style-type: none"> With enrollment materials (done in practice) Within 90 days of coverage Within 120 days of plan effective date Every 5 years for an amended plan Every 10 years for an unamended plan If a material change is made to the plan, a Summary of Material Modifications (SMM) or a new SPD must be distributed to all participants within 210 days after the end of the plan year the change became effective if the change is positive and within 60 days if it is a material reduction. 	<ul style="list-style-type: none"> First-class mail Second- or third-class mail (with address correction) Hand-delivery of SPDs at the worksite Electronically (within DOL safe harbor guidelines) 	ERISA § 104(b) 29 CFR § 2520.104b-2	Although there are no specific civil penalties for failure to furnish an SPD, willful ERISA violations can carry criminal penalties of up to 10 years in prison and \$100,000 fine for an individual. The fine can be increased up to \$500,000 if brought against a company.

In addition to the above requirements, the following information is required to be in the Summary Plan Description (SPD). All information contained in an SPD must be written in a manner calculated to be understood by the average plan participant.

Included in SPD?	SPD Contents	Citation	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p>The following plan information must be specifically stated:</p> <ul style="list-style-type: none"> Name of the plan Name and address of the employer/plan sponsor Plan sponsor's EIN Plan number (used for Form 5500) Type of plan (e.g., medical, disability, etc.) Type of plan administration (e.g., self-funded, insured, etc.) Name, address, and telephone number of plan administrator Name and address of agent for service of legal process Statement that plan administrator may be served with process Plan year Plan year-end for purposes of maintaining the plan's fiscal records 	ERISA § 102(b) 29 CFR § 2520-102-3	

Included in SPD?	SPD Contents	Citation	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	In the case of a plan maintained by more than one employer or organization, a statement that a complete list of the employers and employee organizations sponsoring the plan may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries. In addition, a statement that participants and beneficiaries may receive from the plan administrator, upon written request, information as to whether a particular employer or employee organization is a sponsor of the plan and, if the employer or employee organization is a plan sponsor, the sponsor's address.	29 CFR § 2520-102-3(b)(3) and (4)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If the plan is collectively bargained: <ul style="list-style-type: none"> • The name and address of the employee associations, committee, joint board of trustees, etc., or their representatives • A statement that the plan is collectively bargained and that a complete list of the employers and employee organizations is available on written request to the administrator • A statement that participants and beneficiaries may request information about whether a particular employer or employee organization is a sponsor of the plan (and the address of any such sponsor) • A statement that a copy of the collective bargaining agreement is available for examination 	ERISA § 102(b) 29 CFR § 2520-102-3(i)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of the plan eligibility requirements. In addition, a description of the procedures governing Qualified Medical Child Support Order (QMCSO) determinations or a statement indicating that participants and beneficiaries can obtain, without charge, a copy of such procedures from the plan administrator.	ERISA § 102(b) 29 CFR § 2520-102-3(j)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of the benefits provided.	29 CFR § 2520-102-3(j)(2)	

Included in SPD?	SPD Contents	Citation	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description clearly identifying circumstances that may result in disqualification and ineligibility, or that may result in a denial, loss, forfeiture, suspension, offset, reduction, or recovery of any benefits that a participant or beneficiary may reasonably expect the plan to provide.	DOL Reg. §2520.102-3(l)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of any cost-sharing provisions, including premiums, deductibles, coinsurance, and copayment amounts for which the participant or beneficiary will be responsible. Note: Pursuant to the ACA, for plan years beginning on or after January 1, 2015, out-of-pocket expenses (including co-payments and deductibles) may not exceed \$6,600 for individual coverage and \$13,200 for family coverage.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of the extent to which preventive services are covered under the plan. Note: The ACA requires most health plans to cover recommended preventive services without cost sharing (i.e., co-pays and deductibles).	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of whether, and under what circumstances, existing and new drugs are covered under the plan.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of whether, and under what circumstances, coverage is provided for medical tests, devices and procedures.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of the provisions governing the use of network providers, the composition of the provider network, and whether, and under what circumstances, coverage is provided for out-of-network services.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of any conditions or limits on the selection of primary care providers or providers of specialty medical care.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of any conditions or limits applicable to obtaining emergency medical care.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of any provisions requiring preauthorizations or utilization review as a condition to obtaining a benefit or service under the plan, and a statement addressing any reductions in benefits for non-compliance.	29 CFR § 2520-102-3(j)(3)	

Included in SPD?	SPD Contents	Citation	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If managed care or HMO, list of providers. Permissible to furnish as a separate document so long as the SPD includes a statement that provider lists are furnished automatically, without charge, as a separate document.	29 CFR § 2520-102-3(j)(3)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement identifying when benefits may be denied or forfeited (e.g., by exercise of subrogation or reimbursement rights).	ERISA § 102(b) 29 CFR § 2520-102-3(l)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A summary of any plan provisions governing the authority of plan sponsors and others to terminate the plan or amend or eliminate benefits under the plan and the circumstances, if any, under which the plan may be terminated or benefits may be amended or eliminated.	29 CFR § 2520-102-3(l)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A summary of any plan provisions governing the benefits, rights, and obligations of participants and beneficiaries under the plan on the plan's termination or the amendment or elimination of benefits under the plan.	29 CFR § 2520-102-3(l)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement indicating the source of funding for the plan (i.e., insurance) and the name of the organization through which benefits are provided.	ERISA § 102(b) 29 CFR § 2520-102-3(p) and (q)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A description of claims procedures (including procedures for filing claim forms, providing notifications of benefit determinations, and reviewing denied claims). It is permissible to furnish as a separate document so long as the SPD states that the plan's claims procedures are furnished automatically, without charge, as a separate document.	ERISA § 102(b) 29 CFR § 2520-102-3(s)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement of the rights of participants and beneficiaries under ERISA.	Reg. § 2520.102-3(t) contains model statement	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If the plan provides maternity or newborn infant coverage, a statement that a stay for a vaginal delivery must be no less than 48 hours and 96 hours for a cesarean section.	ERISA § 711 29 CFR § 2520.102-3(u) contains model statement	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	COBRA coverage information – a description of the rights and obligations with respect to continuation coverage, including information concerning qualifying events and qualified beneficiaries, premiums, notice and election requirements and procedures, and duration of coverage.	29 CFR § 2520-102-3(o)	

Included in SPD?	SPD Contents	Citation	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement as to whether a health insurance issuer is responsible for the financing or administration of the plan (including claim payments), and if so, the name and address of the issuer.	ERISA § 102(b) 29 CFR § 2520.102-3(q)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement that foreign language assistance is available if: <ul style="list-style-type: none"> • A plan covers fewer than 100 participants at the beginning of a plan year, and 25% or more of all plan participants are literate only in the same non-English language, or • A plan covers 100 or more participants at the beginning of the plan year, and the lesser of: (a) 500 or more participants, or (b) 10% or more of all plan participants are literate only in the same non-English language. The non-English statement must be prominently displayed.	29 CFR § 2520.102-2(c)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	HIPAA Privacy and HIPAA Security Notice language	ERISA does not require language to be in SPD, but it is recommended for plans subject to HIPAA.	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	A statement that a participant is entitled to revoke or change his or her election due to any one of the following events (if allowed by the plan): <ul style="list-style-type: none"> • Legal marital status change • Changes in the number of dependents or qualifying individuals – including birth, death, adoption and placement for adoption • Employment status changes which affects eligibility for coverage under the plan • Employees and dependents who declined coverage because they had other coverage but subsequently lost the other coverage • Becoming eligible for state premium assistance subsidy 	ERISA § 701(f)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If the plan is a grandfathered health plan, a statement that the plan believes it is a grandfathered health plan within the meaning of section 1251 of the ACA and contact information for questions and complaints.	Treas. Reg. § 54.9815-1251T(a)(2)(i)	

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