

Do You Know What Your Summary Plan Description Says?

Labor & Employment Law Update

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The Employee Retirement Income Security Act (ERISA) requires that plan sponsors develop and maintain a comprehensive plan document as well as a concise, understandable summary plan description (SPD) to communicate to employees what types of benefits are available under an ERISA plan, what the eligibility requirements are, how to receive benefits and who to contact if there are problems or questions. An employer cannot assume that because a plan is exempt from filing requirements, it is also exempt from maintaining a plan document. Even a small plan covering only 10 employees could still be subject to ERISA's requirement for a written plan document.

Many employers mistakenly operate under the assumption that the coverage booklet or insurance contract they receive from their health insurance provider meets the requirements for a SPD. While these documents contain important information, they typically are drafted to comply with state insurance codes, not federal ERISA regulations, and are not adequate to serve alone as a plan document or SPD. An employer can help remedy such a situation by creating a wrap document to attach to the health insurance provider's coverage booklet. A good wrap document may help bring the company into compliance and serve to protect it from future litigation and Department of Labor (DOL) audits of the company's benefit programs.

As a plan document that governs administration and operation of a plan is, in effect, a contract between the employer and its employees, employers should engage counsel to review their plan documents, just as they would any other contract. Most importantly, a plan sponsor must follow the plan procedures consistently. Employers should not wait until the IRS, DOL or a lawsuit forces them to hire counsel to review their documents.