

Wrap Document FAQ's

Q: What is a Wrap SPD?

A: ERISA (the federal Employee Retirement Income Security Act) requires employers who are plan administrators of their group health plans to maintain and distribute summary plan descriptions (SPDs) to plan participants. The SPD describes important information about the plan in language that can be understood by the typical participant. The SPD must accurately reflect the contents of the plan and must include specific information required under federal law, much of which is typically missing from the benefits summaries and insurance certificates distributed by insurance companies.

A: Wrap SPD is designed to wrap around existing certificates of insurance and benefit plan booklets to provide the information necessary to comply with ERISA. The Wrap SPD includes required ERISA provisions and recommended information to “wrap” around the benefit summaries or booklets, insurance certificates and other relevant plan descriptions for each fully insured or self-funded plan option or component plan, including premium conversion plans, health reimbursement arrangements (HRAs) and flexible spending accounts (FSAs). To be compliant, the Wrap SPD and accompanying benefit plan component documents must be distributed to plan participants.

Q: What is a Wrap Plan Document?

A: 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 specified provisions. Many employers assume that insurance contracts for fully insured products are written plan documents. Insurance companies, however, draft their contracts to comply with state insurance laws and, as a result, the contracts do not contain many of the required or recommended provisions that protect the plan, the employer and plan fiduciaries.

A: Wrap Plan Document is designed to meet plan documentation requirements under ERISA and other federal laws and to incorporate all other welfare plans, insurance contracts and other relevant documents (such as premium conversion plans and flexible spending accounts) into a single plan. These materials can be kept together for administrative ease. The Wrap Plan Document provides additional legal protection for the employer and plan fiduciaries and can simplify plan administration.

Q: Isn't distributing the plan booklets or insurance certificates enough to be compliant with government requirements?

A: No. While carriers do provide plan information, they typically will not provide the required provisions that must be included in an SPD and plan document. So an employer/plan administrator will not be in compliance and faces the risk of penalties and other complications if participants only receive a benefits booklet/summary or certificate of insurance.

Q: Who must provide the Wrap SPD?

A: The plan administrator (which is typically the employer) is the person specifically designated by the terms of the plan who is responsible for its management. If the plan does not make a designation, the plan sponsor (typically the employer that establishes or maintains the plan) is generally the plan administrator.

Q: Who must receive the Wrap SPD?

A: The SPD should be distributed automatically to all plan participants. The employer/plan administrator also must furnish copies of the most current SPD and plan document to participants and beneficiaries upon written request and must have copies available for examination. Copies should be furnished no later than 30 days after a written request.

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Wrap Document FAQ's (continued from other side)

Q: Are there penalties if an employer does not have an SPD or plan document?

A: Employers/plan administrators may be liable for serious penalties if they don't provide an SPD or have a current plan document:

- Failure to provide an SPD or plan document within 30 days of receiving a request from a plan participant or beneficiary can result in a penalty of up to \$110/day per participant or beneficiary for each violation.
- Lack of an SPD could trigger a plan audit by the U.S. Department of Labor (DOL).
- Having documentation protects against disgruntled employees if issues regarding coverage arise.

Q: Can the SPD be distributed electronically?

A: Yes, as a general rule, materials required to be furnished under ERISA may be provided electronically if the plan administrator takes necessary measures reasonably calculated to ensure that the system for furnishing documents results in receipt of the material. Ways to ensure receipt of an SPD include using return receipt or notice of undelivered email features, or conducting periodic reviews or surveys to confirm receipt. In addition, in order to provide materials electronically:

- The administrator must take steps reasonably calculated to ensure that the system protects the confidentiality of personal information relating to the individual's accounts and benefits;
- The electronically delivered documents must be prepared and furnished in a manner consistent with the style, format and content requirements applicable to the particular document;
- Notice must be provided to each participant, beneficiary or other individual, at the time the document is furnished electronically, that informs the individual

of the significance of the document when it is not otherwise reasonably evident as transmitted (e.g., the attached document describes changes in the benefits provided by your plan) and of the right to request and obtain a paper version of such document; and

- Upon request, the participant, beneficiary or other individual must be furnished a paper version of the electronically furnished documents.

Unless an individual has the ability to effectively access documents furnished in electronic form at any location where the individual is reasonably expected to perform his or her duties as an employee, and access to the employer or plan sponsor's electronic information system is an integral part of an individual's job duties, he or she must affirmatively consent to receive documents through electronic media. In the case of documents to be furnished through the Internet or other electronic communication network, consent must be given in a manner that reasonably demonstrates the individual's ability to access information in the electronic form that will be used to provide the information. Prior to consenting, the individual must be provided a clear and conspicuous statement indicating:

- The types of documents to which the consent would apply
- That consent can be withdrawn at any time without charge
- The procedures for withdrawing consent and for updating the individual's address for receipt of electronically furnished documents or other information
- The right to request and obtain a paper version of an electronically furnished document, including whether the paper version will be provided free of charge
- Any hardware and software requirements for accessing and retaining the documents.



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