



*Our guest writer, Keith Zuckerman, President, Professional Group Plans, Inc (PGP,) has contributed the following article to the readers of Portnoy, Messinger, Pearl & Associates' electronic HR Update.*

## **ERISA Compliance for Health & Welfare Plans**

### **Can the Benefit Booklet Provided by Our Plan's Insurer Serve as the SPD?**

**QUESTION:** We have a fully insured health plan. The insurer provides a state-law required certificate of insurance booklet that describes the coverage provided under the plan. Can we use that booklet as the SPD for this plan?

**ANSWER:** Probably not on its own. ERISA requires that SPDs include certain specific information, and it is unlikely that the insurer-provided booklet contains all of the necessary details. Among the information required to be in the SPD is plan-identifying information; descriptions of eligibility, benefits, and circumstances causing loss of benefits; claims procedures; and a statement of ERISA rights. The insurer-provided booklet typically contains detailed benefits information and may include descriptions of claims procedures and rights under ERISA, but is often missing important elements such as eligibility or circumstances causing loss of benefits. Sometimes it is customized to provide employer and plan-identifying information, but that information may be incomplete or inaccurate.

You may want to consider using a separate document that, when combined with the insurer-provided booklet, meets all of the ERISA requirements. This "wrap SPD" approach takes advantage of the detailed benefits information provided by the insurer's booklet while allowing customization of the overall SPD. Such a wrap SPD should be carefully reviewed for internal consistency (e.g., between the booklet being wrapped and the wrap document) and external consistency (e.g., between the wrap document, the booklet, and other outside materials not

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wrapped). Finally, of course, it is important to review both documents together to ensure that, when combined, they form a complete and accurate SPD.

Also, you should make sure not to confuse the insurer's certificate of insurance booklet with its four-page "summary of benefits and coverage" (SBC). Required by health care reform, the SBC must be provided to applicants and enrollees before enrollment or re-enrollment. The SBC does not replace the insured plan's SPD—it is an additional document that must be provided by the insurer or plan sponsor in 2012.

Companies should discuss ERISA regulatory compliance with their health care provider or by calling the author, Keith Zuckerman at Professional Group Plans (PGP) at 631-951-9200 ext 125. PGP can assist you to mitigate your risk and get you on your way to being in compliance.

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