



See Page 3 for Online Enrollment Safe Harbor

ERISA PLANS, CHURCH PLANS, and FULLY-INSURED NON-FEDERAL GOVERNMENTAL PLANS
To Notify Participants & Beneficiaries who are...

Select your type of PLAN

SELF-INSURED NON-FEDERAL GOVERNMENTAL PLANS
To notify Participants & Beneficiaries who are...

Covered under a plan, you may ...

Provide in connection with online enrollment or renewal OR

Eligible but NOT enrolled (e.g. New Hires), you may ...

“Covered under a plan,” follow the same requirements above OR ...

“Eligible but not enrolled,” follow the same requirements above OR

Use Electronic Delivery IF ...

- Participants and beneficiaries are notified that documents are provided electronically
- Significance of the SBC is explained
- Notification includes the availability of a paper version upon request at no charge
- Receipt is ensured using “return-receipt,” notice of undeliverable mail, or surveys

And for ...

Use Electronic Delivery IF ...

- SBC is created in format readily accessible (such as HTML, MS Word, or PDF)
- It includes an offer of a paper version available upon request at no charge

If Internet posting, you must also:

- Send timely notification to participants and beneficiaries by email or postcard (see “sample”), including Internet address

SBC MUST be:

- In readily accessible format, placed in a prominent location, available for printing/retaining electronically, consistent with appearance, content and language requirements, and available in paper version upon request at no charge

AND the Plan chooses to ...

- Email SBC after receiving consent from participant and beneficiaries

OR

- Post to Internet and send timely notification to participants and beneficiaries by email or postcard (see “sample”), including internet address

Employees with Work-Related Computer Access

Ensure access to the electronic information system is an integral part of their employment duties.

Employees with Non Work-Related Computer Access

Individual MUST “Opt-In”:

- Participant/Beneficiary consent is required in a manner that demonstrates access

Consent request must include:

- Type of document (SBC) to be provided electronically
- Offer of a paper version available upon request at no charge
- Procedure to withdraw consent
- Hardware/Software requirements

“Sample” email/postcard notification:
As an employee, the health benefits available to you represent a significant component of your compensation package. They also provide important protection for you and your family in case of illness or injury.

Your plan offers a series of health coverage options. Choosing a health coverage option is an important decision. To help you make an informed choice, your plan makes available a Summary of Benefits and Coverage (SBC), which summarizes important information about any health coverage option in a standard format, to help you compare across options.

The SBC is available on the web at: www.sample.com. A paper copy is also available, free of charge, by calling 1-xxx-xxx-xxxx (a toll-free number).



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Electronic Distribution Requirements for Summary of Benefits and Coverage

If the Summary of Benefits and Coverage (SBC) will be distributed electronically, the following requirements must be met:

ERISA, Church, and Fully Insured Nonfederal Governmental Plans

- (I) For participants and beneficiaries who are eligible but not enrolled in coverage, an SBC may be provided electronically if:
 - The format is readily accessible (such as in an HTML, MS Word, or PDF format);
 - The SBC is provided in paper form free of charge upon request; and
 - If the SBC is provided via an Internet posting, you must:
 - Timely notify the individual in paper form (such as a postcard) or email that the SBC documents are available on the Internet,
 - Provide the Internet address, and
 - Notify the individual that the documents are available in paper form upon request.
- (II) For participants and beneficiaries who are covered under a plan, an SBC may be provided electronically if:
 - A. In accordance with the Department of Labor's electronic disclosure regulations, the safe harbor provisions listed below are followed:
 - Employee and non-employee (e.g. COBRA Qualified Beneficiaries, employees on FMLA leave, retirees) participants must be notified that the documents are being provided electronically, the significance of the items being provided, and that they may receive a paper copy of the document upon request;
 - The SBC is provided in paper form free of charge upon request; and
 - You ensure each participant has received the notification by using "return-receipt email," notice of undelivered mail, or by conducting periodic reviews or surveys to confirm receipt. Email receipts should be printed out and filed with the plan's copy of the SBC.

And, for participants with work-related computer access you must:

- Ensure participants can access the electronic document at their workstation where access to the employer's or plan sponsor's electronic information system is an integral part of their employment duties.

And, for participants with no work-related computer access, including employees, COBRA Qualified Beneficiaries (or similar individuals on continuation coverage under a church plan), employees on FMLA, and retirees, affirmative consent is required:

- The participant must consent electronically to receive the document electronically and provide an email address.
 - The participant's consent must be obtained in a way that demonstrates the participant can access the document via the method of electronic distribution. Prior to giving consent, the participant must be informed of all the following:
 - The type of document that will be provided electronically;
 - That consent can be withdrawn at any time and the procedure for withdrawing consent and/or updating information, such as an email address;
 - The right to request and obtain a paper copy of the document; and
 - The type of hardware and/or software needed to access and retain the electronic document.
- B. An additional safe harbor is available to plan sponsors, in the following circumstances:
- If the plan sponsor conducts enrollment or renewal/reenrollment online, SBCs may be provided electronically to covered participants and beneficiaries in connection with their enrollment.
 - Plan sponsors may make SBCs available online for covered participants and beneficiaries who request a copy of the SBC online.

In either case, the individual must have the option to receive a paper copy upon request.

Self-Insured Non-Federal Governmental Plans

Choose to conform to either the provisions for ERISA Plans (described above) or the provisions applicable to issuers offering individual health insurance coverage. The provisions for issuers offering individual health insurance coverage include:

- Email the SBC after obtaining the participants or beneficiaries agreement to receive the SBC or other disclosures by e-mail, or
- If disclosed via an Internet posting, notify the participant and beneficiaries by email or postcard that the SBC is available on the Internet (including internet address).
 - The SBC form may be provided electronically if:
 - The SBC format is readily accessible (such as in an HTML, MS Word, or PDF format);
 - The SBC is placed in a location that is prominent and readily accessible;
 - The SBC is provided in a format that can be electronically retained and printed;
 - The SBC is consistent with appearance, content, and language requirements; and
 - Notification is made to the participant or beneficiaries that a paper form is available upon request at no charge.

The intent of this analysis is to provide general information regarding the provisions of current federal laws and regulation. It does not necessarily fully address all your organization's specific issues. It should not be construed as, nor is it intended to provide, legal advice. Your organization's general counsel or an attorney who specializes in this practice area should address questions regarding specific issues.