



SBC Electronic Distribution Rules

Update from VEHI

There are various times throughout the year when a school may need to distribute an SBC. An SBC may be provided in paper form to participants and beneficiaries covered under the plan, or can be provided electronically if specific requirements are met.

This memo and Distribution Matrix address the electronic distribution rules applicable to SBC(s).

In general, for individuals who are eligible for a plan but not yet enrolled, SBCs may be provided electronically as long as the SBCs are readily accessible. The plan must advise the individuals in paper form (such as a postcard) or by email how to obtain the SBC.

However, for individuals already covered under a plan, the final regulations only permit electronic distribution if the Department of Labor (DOL) requirements for electronic distribution are satisfied. This means that SBCs generally could be distributed electronically only to employees whose access to the sponsor's electronic information system is an integral part of their employment duties; otherwise, prior consent to the electronic distribution would have to be obtained. Satisfaction of the DOL requirements means that many plan sponsors would not be able to electronically distribute SBCs to all affected individuals.

Guidance for this memo is available at the following [link](#):

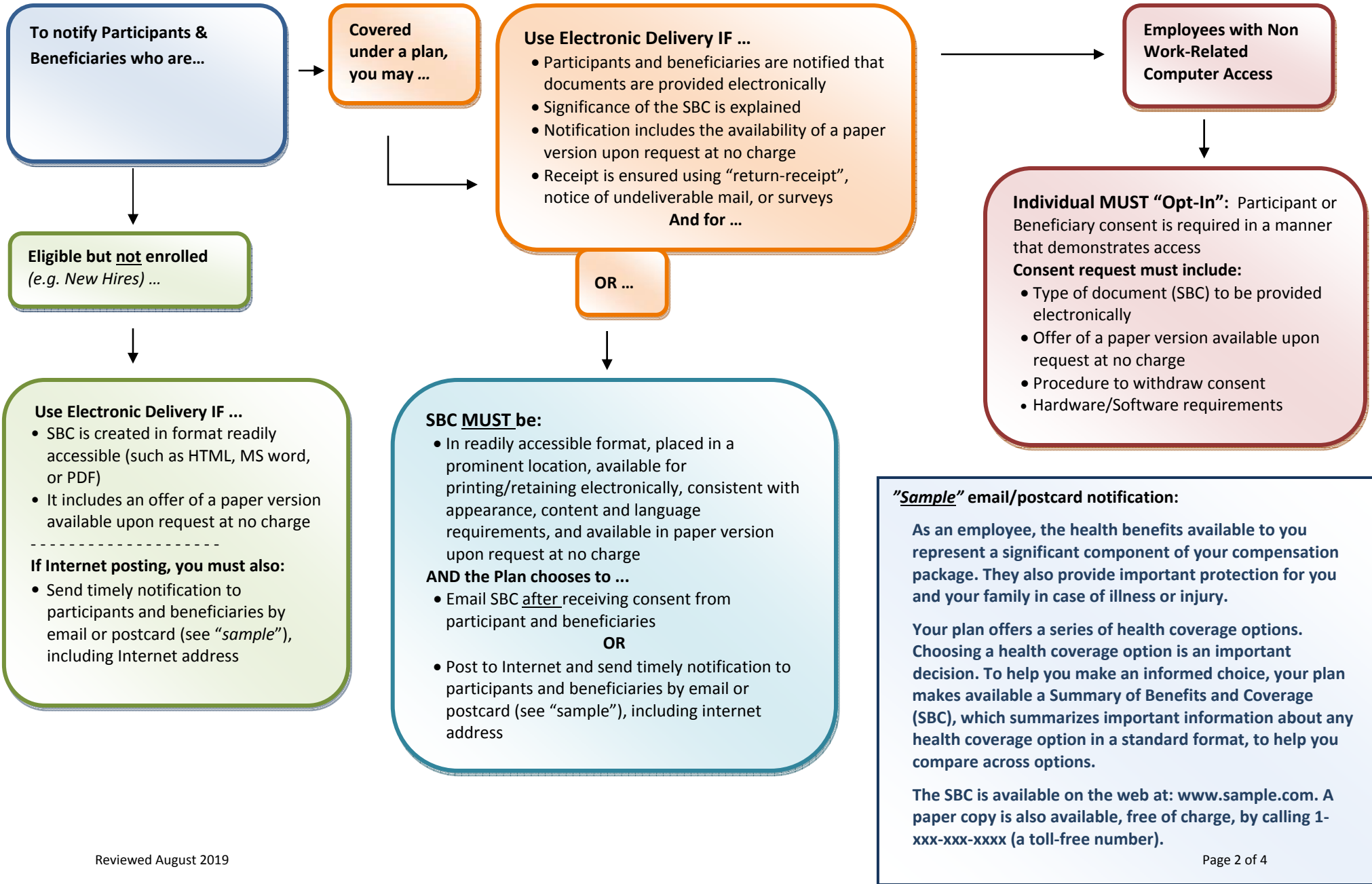
<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/summary-of-benefits>.

This memo is for general guidance purposes only—it is NOT legal advice.

If you have questions about the information in this document, please contact Bobby-Jo Salls and Mark Hage, your VEHI Trust Administrators: bobbyjo@vsbit.org, 223-5040 (ex. 233) or mhage@vtnea.org, 223- 6375 (ex. 2420).

Thank you.

Summary of Benefits and Coverage (SBC) Electronic Distribution Matrix



Electronic Distribution Requirements for Summary of Benefits and Coverage

If distribution of the Summary of Benefits and Coverage (SBC) will be done electronically, the following requirements must be met.

For participants and beneficiaries who are eligible but not enrolled for coverage, an SBC may be provided electronically if:

- 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
 - timely notify the individual in paper form (such as a postcard) or email that the SBC documents are available on the Internet,
 - you provide the Internet address, and
 - you notify the individual that the documents are available in paper form upon request.

For participants and beneficiaries who are covered under a plan, an SBC may be provided electronically if: (select A or B)

A. In accordance with the Department of Labor's disclosure regulations at 29 CFR 2520.104b-1, the *safe harbor provisions* listed below are followed:

- Employee and nonemployee (e.g. COBRA qualified beneficiaries, employees on FMLA leave, retirees) participants must be notified that the SBC 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, 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 done 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. As an alternative, use one of the following methods:

- After obtaining consent of the participants or beneficiaries agreement to receive the SBC by e- mail, provide by email, or
- After obtaining consent, if 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.