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DOL Proposes New Electronic Disclosure Safe Harbor for Group Health Plans

Services

Employee Benefits & Executive Compensation

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The Department of Labor (DOL) has issued a proposed rule that would create a new safe harbor allowing group health plan administrators to deliver required disclosures electronically by default, rather than relying on paper delivery or the more limited 2002 electronic disclosure safe harbor. The proposal is modeled on the "notice-and-access" safe harbor already available to retirement plans since 2020 and would apply to a broad range of ERISA-required health plan notices.

Key Points of the Proposal

1. **A new safe harbor for group health plans**

While the new rule is not mandatory, it provides group health plan administrators with a more modern and practical method to satisfy ERISA's disclosure rules electronically.

2. **Default electronic delivery to "covered individuals"**

A participant, beneficiary, or dependent child (age 18+) becomes a "covered individual" simply by providing an email address or mobile number to the employer or plan. Once that information is on file, disclosures can be delivered electronically by default, without needing the "wired at work" or affirmative consent requirements under the 2002 rules.

3. **Broad scope of covered documents**

Nearly any document or information a group health plan must furnish under Title I of ERISA would qualify, including documents that only have to be provided upon request.

4. **Notice-and-website model**

Plans must post covered documents on a website and send a Notice of Internet

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Availability (NOIA) with specific required content, including a link to the document, a statement of the right to request paper copies or opt out, and a phone number for the plan. Combined annual NOIAs are permitted for certain recurring disclosures.

5. **Strong paper and opt-out protections remain**
   Covered individuals retain the right to request a free paper copy of any disclosure and to opt out of electronic delivery entirely at no charge. Plans must also have procedures to catch and cure invalid or inoperable electronic addresses.

6. **No email-based delivery option (unlike retirement plans)**
   Because of the sensitivity of protected health information, the proposal does not permit the direct-to-email delivery method available to retirement plans; group health plans must use the notice-and-website approach instead.

7. **Comment period and effective date**
   Comments are due by September 21, 2026. If finalized, the rule would become applicable on the first day of the first calendar year following publication of the final rule.

What This Means to You

Employers sponsoring group health plans should:

Collect or confirm electronic addresses (email or mobile numbers) for participants, beneficiaries, and eligible dependents so the plan is positioned to use the new safe harbor, if adopted.

Coordinate with insurers, TPAs, and other service providers who currently prepare or distribute plan disclosures, since responsibilities for the required website and notices may shift or need to be reallocated by contract.

Review vendor and internal systems for the ability to post documents on a compliant website, generate NOIAs, and track opt-out and paper-copy requests.

This summary is for general informational purposes and reflects the DOL's proposed rule as published; the requirements described above are not yet final and may change before adoption.

Contact Us

If you have questions about the new DOL proposal or want to discuss submitting comments about the draft rule, please contact Craig Kovarik or your Husch Blackwell attorney.

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