

Debunking SPD Myths, Part 3:

Your Insurance Contracts and Summaries of Benefits and Coverage Are Not SPDs for Your Health or Other Welfare Benefits Plan

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DEBUNKING SPD MYTHS, PART 3: YOUR INSURANCE CONTRACTS AND SUMMARIES OF BENEFITS AND COVERAGE ARE NOT SPDS FOR YOUR HEALTH OR OTHER WELFARE BENEFITS PLAN

Written by Eric Gregory – 4/5/19

One common response we hear from employers when asked to provide a copy of their health or other welfare plan summary plan description (“SPD”), is whether providing a bundle of insurance certificates and/or summaries of benefits and coverage (“SBCs”) is good enough. While these documents may provide critical information and are certainly important, they are absolutely not a substitute for an SPD.

As part of our ongoing “Debunking SPD Myths” series, we will explain why these documents do not meet all of the elements necessary to constitute an SPD, and why employers should consider engaging a benefits attorney to draft an SPD and plan document.

Myth: Insurance Policies, Certificates or Benefits Booklets are an SPD

Many plan sponsors believe that their insurance policies or certificates act as their SPD or even their plan document for their

fully-insured health or other welfare benefits. While an insurance certificate will outline the eligibility rules, benefits, exclusions, and claims procedures, it may or may not meet all of the requirements for an SPD, including: contact information for the plan sponsor and plan administrator, an agent for service of legal process, the ERISA plan number, and a statement of participant rights.

Similarly, for self-insured benefits, benefits booklets and administrative service agreements will generally not meet all of the above requirements to serve as an SPD.

Myth: SBCs are an SPD

Employers also commonly believe they are meeting their disclosure requirements by providing an SBC to their employees. While SBCs are certainly required, and are helpful documents for employees to understand and compare their coverage options, they do not meet the requirements to serve as an SPD. In fact, most SBCs will refer to the plan document or the SPD for employees to obtain the complete terms of their coverage.

Myth: Our Broker, Insurer, Accountant, or Other Service Provider is Responsible for Providing an SPD

Many employers believe that their broker, insurer, accountant, or another service provider is handling the drafting and distribution of their health or other welfare benefits SPD. Even if a third-party has prepared an SPD, the responsibility for its

content and distribution falls solely with the employer in its role as plan administrator.

Myth: There is no Advantage in having a Welfare Benefits Plan Document or SPD

Not having a formal plan document or SPD for a welfare benefits plan means that an employer is not only not complying with their disclosure requirements, but is also failing to take advantage of numerous advantages and protections that can be provided in a plan document or SPD.

As our own Cyndi Moore wrote back in 2017, having a formal plan document is necessary to meet ERISA's reporting and disclosure standards to participants on request or to the Department of Labor in connection with a plan audit. Additionally, a formal written plan document protects both the employer and participants by outlining each party's rights and responsibilities. It can delegate administrative functions to another party, such as designating a third party administrator as a claims fiduciary. It can also specify a statute of limitations that may be shorter, specify a venue where a lawsuit may be filed, and provide procedures for collecting when benefits are overpaid.

Conclusion

While insurance certificates, benefits booklets, and SBCs are important documents for employers who sponsor health or other welfare benefits plans to maintain and (when appropriate)

distribute, they are not replacements for an SPD. Employers of all sizes that provide welfare benefits to their employees are subject to the SPD requirement, and can face penalties under ERISA for failing to maintain it. Additionally, an SPD and plan document can provide numerous other advantages and protections for employers.

Be sure to follow the All Things HR Blog as we debunk more SPD myths and explain more compliance tips for employers as part of this ongoing series.

See part 1 of our “Debunking SPD Myths” series: [The SPD Basics, and \(Almost\) Every Employer Needs One](#)

See part 2 of our “Debunking SPD Myths” series: [Think That Emailing Your SPD to Employees is Always Enough? Think Again](#)

About the Author

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