

# OVERVIEW OF DISCLOSURE REQUIREMENTS FOR THE MBA GROUP INSURANCE PLAN

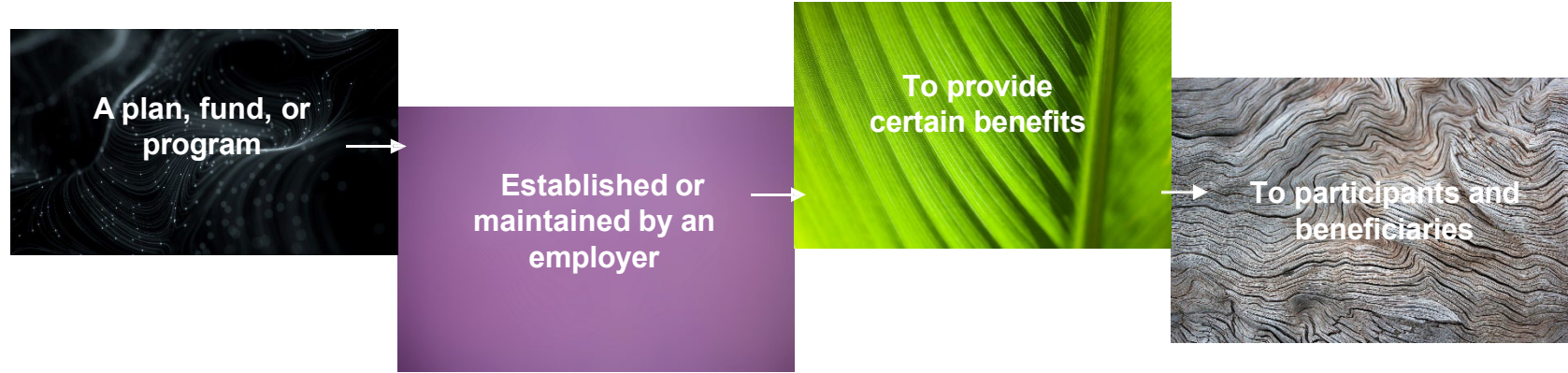
June 25, 2024

Presented by Howard S. Kirkpatrick, Esq.  
Partner, Smith & Downey, P.A.

# HISTORY OF ERISA

- The Employee Retirement Income Security Act ("ERISA") was enacted in 1974
- Passed to address fraud in union pension funds and protect workers from losing their pensions
- Applies to employer provided benefit plans (retirement and health and welfare)
- ERISA's regulatory protections focus on disclosures to participants/beneficiaries, reporting obligations to federal regulatory agencies, strict standards of care for employers, and federal causes of action for participants/beneficiaries
- The U.S. Department of Labor (DOL), the Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC) regulate various aspects of ERISA

# WHAT IS A “WELFARE BENEFIT PLAN”



# WELFARE PLAN BENEFITS

## Medical, surgical, or hospital care or benefits

- Medical (PPO, HDHP, EPO, telemedicine), pharmacy, dental, and vision
- Health flexible spending accounts (FSAs) & health reimbursement arrangements (HRAs)
- On-site clinics that provide more than insignificant medical care
- Employee assistance programs (EAPs) that provide counseling
- Wellness programs that include medical care (e.g., biometric screening) or are related to a health plan (e.g., premium incentives)

## Benefits in the event of sickness, accident, disability, death or unemployment,...prepaid legal services

- Life & accidental death & dismemberment (AD&D)
- Business travel accident (BTA)
- Long-term disability (LTD) & certain short-term disability (STD) plans
- Certain severance plans
- Certain day care and vacation plans
- Prepaid legal services

# ERISA DISCLOSURES

## A. Plan Documents

All ERISA governed plans must have a written plan document that, at a minimum, does the following:

Plan administrator and  
fiduciary contract  
information

Describes the kind and  
type of plan

Sets forth costs and  
funding policy

Describes the benefits  
offered by the Plan

Describes how to file a  
claims for benefits

Amendment and  
termination procedures

Outlines other federal  
mandates (COBRA, FMLA)

What is a “wrap” plan and why have one?

# ERISA DISCLOSURES

## B. Summary Plan Descriptions: Content

An SPD is a plain language summary of the plan which must include the following:

- Plan identifying information (e.g., plan name, plan number, plan year, plan administrator, etc.)
- Eligibility
- Description of plan benefits
- Description of circumstances causing loss or denial of benefits
- Amendment & termination provisions
- Subrogation and reimbursement provisions
- Plan contributions and funding
- Claim & appeal procedures
- ERISA rights statement
- Offer of assistance in non-English for certain plans
- Overpayment provisions
- Plan asset provisions
- Continuation rights (state or COBRA)
- Other federal rights and disclosures (HIPAA, FMLA, QMCSOs, etc.)
- Insurer or TPA role (e.g., claims administration)

# ERISA DISCLOSURES

## B. Summary Plan Descriptions: Who and When?

Who Must Get an SPD?	When Must They Get It?
<ul style="list-style-type: none"><li>• All employees eligible for the Plan</li><li>• All employees covered by the Plan</li><li>• All retirees covered by the Plan</li><li>• All COBRA beneficiaries</li><li>• All QMCSO beneficiaries</li></ul>	<ul style="list-style-type: none"><li>• Within 90 days of becoming a participant</li><li>• 120 days after starting a plan</li><li>• Every 5 years if changes to the plan</li><li>• Every 10 years if no changes to the plan</li></ul>
Participants and beneficiaries upon request	Within 30 days of the request.

# ERISA DISCLOSURES

## B. Summary Plan Descriptions: Paper Delivery

SPDs must be provided in a way “**reasonably calculated** to ensure actual receipt of the materials”

Hand Delivery (e.g., orientation, welcome packet, W-4, etc.)

Mail (first, second, third class)

- Pros of Paper--Simplicity
- Cons of Paper--Expensive



# ERISA DISCLOSURES

## B. Summary Plan Descriptions: Electronic Delivery

DOL Regulations Allow for E-Delivery Under Certain Circumstances

Employees with access to employer's electronic system as an integral part of their jobs



Wired at Work—DOL and IRS Safe Harbors

All other employees



Consent—DOL and IRS Safe Harbors

# ERISA DISCLOSURES

## C. Document Upon Written Request

Plan Administrators are responsible for providing participants/beneficiaries the following documents:

- The Plan document and any amendments thereto
- The latest SPD
- The latest Summary Annual Report (summary of Form 5500)
- Trust agreements, if any
- Final Form 5500s
- Other documents under which a plan is established or operated

Plan Administrators must provide documents **no later than 30 calendar days after receipt of the request**. Failure to do so carries **penalties of up to \$110/day**.

# ERISA DISCLOSURES

## D. Other Notices

Other welfare benefit plan notices required from time to time include:

- Summary of Material Modifications
- Enrollment notices
- Claims denials and appeal notices
- Notices relating to QMCSOs
- COBRA notices
- Summary of Benefits and Coverage
- Notice of health insurance marketplace
- HIPAA notices

## Comments and Questions?



**Howard S. Kirkpatrick, Esq.**  
Partner, Smith & Downey, P.A.  
508-431-7438  
[hkirkpatrick@smithdowney.com](mailto:hkirkpatrick@smithdowney.com)  
[www.smithdowney.com](http://www.smithdowney.com)