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Leaving Snail Mail Behind: The DOL's Proposed Electronic Disclosure Rules for Health Plans

On July 23, 2026, the Department of Labor (DOL) issued a proposed rule that would give to group health plans what previously issued regulations gave to retirement plans: A modern electronic disclosure safe harbor. If finalized, the proposed rule could help group health plans streamline standard disclosures and cut down on administrative costs.

2002 Safe Harbor

The 2002 regulations established a safe harbor permitting electronic disclosures only if a participant either (1) affirmatively consents to that method of disclosure, or (2) has access to an electronic information system as an integral part of his or her regular job duties. Complying with that safe harbor proved to be burdensome for plan administrators. Moreover, it has not been updated in over twenty years. To put it in perspective, when the last safe harbor was issued, Tobey Maguire's Spiderman had just hit the theaters, the iPhone was still five years away, and Tom Brady had just won his first Super Bowl. Needless to say, it was time for an update.

2026 Proposed Rule

The recently announced proposed rule should allow sponsors of group health plans to electronically disclose plan documents to most participants with much less headache. Keep in mind, however, that the proposed rule is merely that – "proposed" – and may not be finalized in its current form, if it is finalized at all. Like the retirement plan electronic disclosure rules issued in 2020, the proposed rule for sponsors of group health plans is optional. Plan administrators may continue using the existing 2002 safe harbor if they prefer.

Potentially Affected Plans

If it is finalized, the proposed rule would be available to group health plans, as defined by Section 733(a)(1) of ERISA. The rule would not apply to disclosures for other welfare plans, such as life and disability insurance, apprenticeship programs, or prepaid legal plans.

Who May Receive Disclosures Electronically?

The proposed rule would allow administrators of group health plans to electronically disclose plan documents to any participant (including dependent children ages 18 and over) who provides the employer, plan sponsor, or administrator with an email address (including work email) or a smart phone number capable of receiving electronic notices.

What Documents May Be Provided Electronically?

The rule would apply to any documents that the administrator is required to furnish under ERISA. The DOL intended this to be a broad definition to include as many documents as possible, including, among other documents:

- Summary Plan Descriptions;
- Summaries of Material Modifications;
- Summary Annual Reports;
- COBRA notices;
- HIPAA special enrollment notices; and
- Summaries of Benefits and Coverage.

Unlike the 2020 retirement plan safe harbor, the proposed regulations would also apply to documents that must be furnished only upon request.

Maintaining a Website

The health plan must maintain a website where participants may access covered documents. The plan may delegate this responsibility to a third party. The website must satisfy several accessibility requirements, including presenting documents in a manner reasonably calculated to be understood by the average plan participant and ensuring documents remain available for the required period.

Notice of Internet Availability (NOIA)

Plan administrators will be required to furnish each participant with a NOIA for each document once it is made available on the website, or they must provide a combined annual NOIA. The NOIA should be sent to the same email address or phone number the plan is using for disclosing the notices. The proposed rule outlines the required content for the NOIAs as well as the delivery standards.

May Participants Still Request Paper Copies?

Yes. Participant choice remains a cornerstone of the proposed safe harbor. Participants may request free paper copies of covered documents at any time and may opt out of electronic delivery entirely. The plan administrator must create a reasonable procedure for opting out of the electronic disclosure system.

Next Steps

After more than two decades, the DOL appears ready to leave "snail mail" behind. Whether the proposal is finalized in its current form remains to be seen, but employers and group health plans should start preparing now for a future in which electronic delivery becomes the rule rather than the exception.

This blog post was drafted by Mary Mason , an attorney in the Overland Park, Kansas, office of Spencer Fane. For more information, visit spencerfane.com.

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