July 30, 2026

DOL Proposes New Electronic Disclosure Safe Harbor for Group Health Plans

by Martha L. Sewell

The Department of Labor has issued a proposed rule to create a new, optional electronic disclosure safe harbor for ERISA group health plans. If finalized, this proposal would allow the provision of required disclosures electronically to a broader group through a notice-and-access framework. This rule was published on July 23, 2026 in the Federal Register (https://www.federalregister.gov/d/2026-14917).

Simplified Access to Electronic Disclosures

Under the current ERISA 2002 electronic disclosure safe harbor, electronic delivery generally is limited to participants who are effectively "wired at work" (computer use is an integral part of their job) or to individuals who have affirmatively consented to electronic delivery. As a practical matter, that framework often leaves employers with having to provide paper copies to many participants and beneficiaries in order to satisfy the safe harbor.

The proposed rule would move group health plans closer to a default electronic delivery model by allowing plan administrators to post documents online if they furnish a Notice of Internet Availability, or NOIA, to participants and beneficiaries. Individuals would still have the right to request paper copies and to opt out of electronic delivery. This rule would be an additional safe harbor and would not replace the current 2002 safe harbor.

Unlike the 2020 pension e-disclosure safe harbor, the proposal does not permit group health plans to email the documents directly to individuals; it relies on website posting plus a NOIA.

What the Proposal Would Cover

The proposed safe harbor applies only to group health plans and covers documents and information that the plan administrator is required to furnish to participants and beneficiaries under Title I of ERISA, such as the summary plan description (SPD), summary of material modifications (SMM), and the summary annual report. It also applies to required notices and disclosures, such as the Notice of Special Enrollment Rights, COBRA notices, and the CHIPRA notice. Further, the Department proposes to amend the ERISA claims procedure regulation so that adverse benefit determination notices and benefit determinations on review for group health plans could comply with the new safe harbor.

Importantly, the current proposed rule does not extend to employee welfare benefit plans that are not group health plans, such as life and disability plans.

How the Safe Harbor Would Work

Before relying on the safe harbor for an individual, the administrator generally would have to provide an initial notification explaining that covered documents will be furnished electronically, identifying the electronic address to be used, and describing the individual's rights to paper copies and to opt out. The proposed rule specifies how the NOIAs are to be provided, and does permit certain combined annual NOIAs, including for an SPD, annual disclosures that do not require participant action by a particular deadline, and covered documents furnished with annual enrollment materials or other materials describing plan benefits.

A covered individual would include a participant, beneficiary, or other individual entitled to receive covered documents who provides an electronic address, such as an email address or smartphone number, at which the individual may receive a written NOIA. An employee with an employer-assigned electronic address used for employment-related purposes would be treated as having provided that address. If an electronic address becomes invalid, the administrator would have to take reasonable steps to cure the issue or treat the individual as having opted out of electronic disclosures.

The proposed rule includes details about the information that must be included in a NOIA, including a prominent statement about the importance of the disclosure, identification of the covered document, the website address or hyperlink where the document is available, and an explanation of the right to request and obtain a paper copy free of charge and to opt out of electronic delivery. The rule also would require a compliant website, or another internet-based repository such as a mobile application, where covered individuals can access covered documents. The online materials would have to be presented in a format that can be read online, printed clearly on paper, searched electronically, and retained electronically.

Can Plans Rely on the Proposal Now?

No, this rule is not yet in effect. If it is finalized, the rule would apply on the first day of the first calendar year following publication of the final rule.

Attorney Karen Martinez contributed as a co-author to this blog post.