

# Compliance

## News to Know



**PATRIOT**  
GROWTH INSURANCE SERVICES  
**COMPLIANCE** ✓



### Spring Clean your Plan Compliance

Has plan compliance gathered winter dust bunnies? As you would your home, office, or garage, a regular sort & clean of plan compliance is necessary for optimal usage of resources and assuring deadlines aren't missed. A *compliance clean* creates opportunities to reassess benefits needs while preparing for upcoming deadlines.

1. **Inventory your plans.** Which compliance deadlines apply to which plans? A checklist is essential. Ask your advisor for the Benefits Compliance Checklist.
2. **Set dates for task completion.** Work backward from the deadline & allow time to produce & review reports required for submission. *For example*, the June 1 RxDC report requires completion of an excel spreadsheet. It's changed slightly for the 2024 deadline. Has the submitter reviewed it to gather data for reporting?
3. **Appoint the task** – you're now refreshed on what plans are in place & know deadlines for specific requirements. Appoint a person to own the task through completion & verify when done.

**PATRIOT**  
GROWTH INSURANCE SERVICES  
**COMPLIANCE** ✓  
**BENEFITS WATCH**

2<sup>nd</sup> Wednesday each month at 1 pm EST

April 10 – ERISA Plan Docs. 101

May 8 – ERISA Plan Docs. 201

June 12 – Federal FMLA Basics

[Register Here!](#)

### Upcoming Deadlines

- ✓ **June 1** – RxDC Report due  
[File online via CMS Reporting Instructions](#)
- ✓ **July 31** – PCORI Fee due for self-funded plans. Complete IRS [Form 720](#)
- ✓ **July 31** – File Form 5500 or Form 5558 for an extension via [eFAST2](#)

Reach out to your Arrow Benefits Advisor to access our **Benefits Compliance Checklist**



## Benefits Watch Webinars

Webinars are open to everyone, and registration is required! Webinar topics were designed to address the most requested employee benefits compliance conundrums. Second quarter's webinars dive deep into ERISA's benefit plan disclosure requirements. In June, federal FMLA will be reviewed, and include a short review of the state leave laws. Review upcoming webinar summaries below and be sure to register!

### April 10<sup>th</sup> Webinar

Register for [ERISA Plan Docs. 101](#) at 1 pm Est.

Can you describe the characteristics of, and explain the differences between, a SPD, SMM, SBC, SAR, and WRAP Docs.? What is the foundation document required under ERISA for group health plans? In the first of two webinars covering ERISA plan documents, Patriot's Benefits Compliance Counsel, Olivia Ash, will define and describe essential plan documents, and outline the six required elements of an ERISA plan document, and why it's essential to create and maintain it.

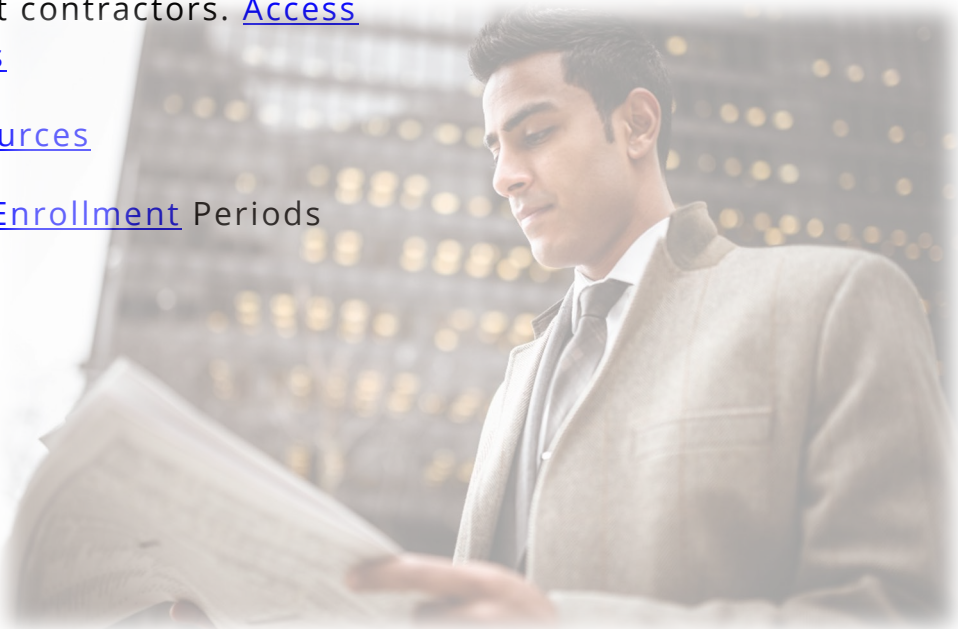
### May 8<sup>th</sup> Webinar

Register for [ERISA Plan Docs. 201](#) at 1pm Est.

ERISA requires group health plans (and the employers who sponsor them) to create and maintain required documents pertaining to the plan. ERISA also requires employers report and disclose plan information to both plan participants and federal agencies. In ERISA Plan Docs. 201, Patriot's Benefits Compliance Counsel, Olivia Ash, will discuss reporting and disclosure requirements contained within essential ERISA plan documents. Tune in as Liv runs through sample plan documents and learn tips for drafting.

## The Rundown

- [HHS Bulletin](#) Reminds HIPAA-Covered Entities: they are not Permitted to use Tracking Technologies in a Manner that would Result in Impermissible Disclosures of PHI
- Article: [Changes to Medicare](#): CMS Reduces Financial Burden of Paying for Rx Drug Coverage for Medicare Participants
- Article: Refresh your Knowledge on Essentials of [Nondiscrimination Rules for Cafeteria Plans](#).
- CMS [Fact Sheet: Short-term Limited Duration Insurance](#) & Fixed Indemnity Plans – Final Rule
- CMS Fact Sheet: Employers: Pregnant Workers' Fairness Act –[guidance for compliance at EEOC's website](#).
- External: [ERISA Penalties](#)
- Article: CDC: [New COVID-19 Guidance](#) for Employers
- DOL's return to the 6 Factor Test to determine employees vs. independent contractors. [Access the DOL's website for FAQs](#)
- CMS: [RxDC Reporting Resources](#)
- External: [Detailed Special Enrollment](#) Periods Reference Chart





# Courts are Serious about Fiduciary Responsibilities

By Olivia Ash, Esq., MS



The headlines are hot with active court cases surfacing the various & sundry ways employers **fail to know & discharge their ERISA fiduciary duties to group health plan participants & their beneficiaries.** With high-profile, active cases in the news, review the five ERISA fiduciary duties below & [5 habits of healthy plans](#).

## ERISA's Five Fiduciary Duties for Plan Sponsors:

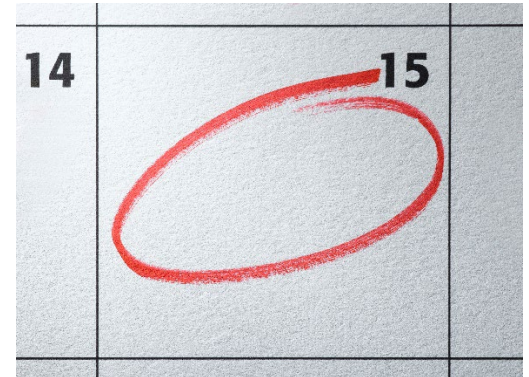
1. **Act** solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them;
2. **Carry** out duties prudently;
3. **Follow** the plan documents;
4. **Hold** plan assets in trust; and
5. **Pay** only reasonable plan expenses.

Both named & [functional fiduciaries](#) must make EVERY PLAN DECISION for the benefit of the plan participants & their beneficiaries for the sole purpose of providing benefits. These types of decisions include, among others:

1. Vetting plan providers
2. Maintaining plan documents
3. Timely distributing plan documents

ERISA [on the DOL's website](#).

# Q2 Compliance Deadline Dates



Review federal deadlines\* below:

- ✓ **April 14** - Distribute reminder to participants regarding availability of HIPAA privacy notice (recommended)
- ✓ **April 15** - Make final HSA contributions toward 2023 HSA limits and/or make HSA corrections related to 2023 calendar year.
- ✓ **April 30, May 31, and June 30** - File Form 5500 for plan years ending Sept. 30, Oct. 31, and Nov. 30, 2023
- ✓ **June 1** - Submit prescription/medical plan cost reporting to CMS (RxDC)

Upcoming select state & local deadlines:

- ✓ **April 2** - Submit coverage statements to the *New Jersey Division of Revenue and Enterprise Services*
- ✓ **April 30**
  - Submit Forms 1095-C and/or 1095-B, with Form 1094-C or 1094-B, to *Washington D.C. Office of Tax & Revenue*
  - Make San Francisco HCSO contributions for prior calendar quarter.
  - File annual San Francisco HCSO reporting form for the prior calendar year.

[\\*Source](#)

Don't  
Forget  
the  
TiC!

Effective November 2020, then overshadowed and confused with elements of the CAA, the Transparency in Coverage (TiC) Act requires most plans and issuers to disclose pricing information on a public website. The TiC includes two core elements: creation & maintenance of a machine-readable file (MRF) containing certain in & out of network rates; & an internet-based price comparison tool for specific items & services.

[Review requirements on CMS' website.](#)

Disclosure documents for ERISA Welfare Plans: Part 2

In our last newsletter (Vol. 3.4) we outlined employer requirements under ERISA regarding basic documents. Today, we dive into additional disclosures, specifically the Summary of Material Reduction in Covered Services or Benefits, the SMM, the SBC, and COBRA Notices. *Verify with your local advisor & counsel for about which documents apply based on your plan details.* Data courtesy of the [Reporting & Disclosure Guide for Employee Benefits Plans](#), at the DOL's website.

| Additional Disclosure Requirements for Welfare Benefit Plans  |  |  |  |
|---|--|--|--|
| Document  | Type of Data   | Target Audience  | Timing Requirements  |
| Summary of Material Reduction in Covered Services or Benefits | This summary explains any group health plan amendments or changes in information required to be in SPD that constitute a "material reduction in covered services or benefits," such as an increase in premiums   | Participants   | Generally, within 60 days after adopting a material reduction in group health plan services or benefits.<br><br>See 29 CFR § 2520.104b-3(d)(2) for when a plan may alternatively have 90 days to provide the required information. |
| Summary of Benefits and Coverage (SBC) and Uniform Glossary   | The SBC is a template that describes the benefits and coverage under the plan. A uniform glossary defines important health coverage and medical terms.<br><br>See 29 CFR § 2590.715-2715(a) and (c). The required SBC template is available at <a href="https://www.dol.gov/sites/dolgov/files/EBSA/laws-andregulations/laws/affordable-care-act/foremployers-and-advisers/sbc-template-new.pdf">dol.gov/sites/dolgov/files/EBSA/laws-andregulations/laws/affordable-care-act/foremployers-and-advisers/sbc-template-new.pdf</a> . | Plans (provided by group health insurance issuers)<br><br>Participants & Beneficiaries | With enrollment materials and upon renewal or reissuance of coverage.<br><br>To special enrollees by the date the SPD is required to be provided (90 days from enrollment).<br><br>Also, within 7 days upon request.               |

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|   | <p>The Uniform Glossary is available at <a href="https://dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/sbc-uniformglossary-of-coverage-and-medical-termsnew.pdf">dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/sbc-uniformglossary-of-coverage-and-medical-termsnew.pdf</a>.</p> <p>The SBC must include both a website link where an individual can review the Uniform Glossary as well as contact information for obtaining a paper copy.</p>  |  |   |
| <b>Summary of Material Modification (SMM)</b> | The SMM describes modifications to a plan and changes to the information that is required to be in the SPD. The distribution of an updated SPD satisfies this requirement.   | Participants & Beneficiaries receiving benefits  | Within 210 days after the end of the plan year in which the change is adopted.  |
| <b>COBRA General Notice<sup>3</sup></b>       | <p>This notice informs employees and spouses of their right to purchase temporary extension of group health coverage when coverage is lost due to a qualifying event. See 29 CFR § 2590.606-1. For more information, visit <a href="https://dol.gov/agencies/ebsa/laws-and-regulations/laws/COBRA">dol.gov/agencies/ebsa/laws-and-regulations/laws/COBRA</a>.</p> <p>A model notice is available at <a href="https://dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-general-notice.docx">dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-general-notice.docx</a>.</p>   | Covered employees<br>Covered spouses   | When group health plan coverage begins.   |
| <b>COBRA Election Notice<sup>3</sup></b>      | <p>This notice informs qualified beneficiaries of their right to elect COBRA coverage when they experience a qualifying event. It also includes information about other coverage options available, such as through a Marketplace. See 29 CFR § 2590.606-4.</p> <p>For more information, visit <a href="https://dol.gov/agencies/ebsa/laws-and-regulations/laws/COBRA">dol.gov/agencies/ebsa/laws-and-regulations/laws/COBRA</a>.</p> <p>A model notice is available at <a href="https://dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-election-notice.docx">dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/cobra/model-election-notice.docx</a>.</p> | Covered employees<br>Covered spouses<br>Dependent children who are qualified beneficiaries | <p>Generally, within 14 days after the employer or qualified beneficiary notifies the plan administrator of the qualifying event. However, if the employer is also the plan administrator, the administrator has 44 days after the qualifying event to provide the notice.</p> <p>If the plan provides that COBRA continuation coverage starts on the date of loss of coverage, the administrator must provide the notice within 44 days of the date of loss of coverage due to a qualifying event.</p> |

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| <b>Notice of Unavailability of COBRA</b>  | This notice informs an individual that they are not entitled to COBRA coverage.<br><br>See 29 CFR § 2590.606-4(c).   | Individuals who notify the administrator of a qualifying event but whom the administrator determines are not eligible for COBRA coverage. | Generally, within 14 days after being notified by the individual of the qualifying event. |
| <b>Notice of Early Termination of COBRA Coverage</b>  | This notice informs a qualified beneficiary that their COBRA coverage will terminate earlier than the maximum period of coverage.<br>See 29 CFR § 2590.606-4(d). | Qualified beneficiaries whose COBRA coverage will terminate earlier than the maximum period of coverage.                                  | As soon as possible after the administrator determines that coverage will terminate.      |
| <b>3</b> COBRA generally applies to group health plans of employers who employed 20 or more employees during the prior calendar year. Provisions of COBRA covering state and local government plans are administered by the Department of Health and Human Services. COBRA does not apply to plans sponsored by certain church-related organizations. |  |   |   |