
## New Proposed DOL Safe Harbor Alternative for Group Health Plan Administrators' Electronic Disclosures May Become Available January 1, 2027

The Department of Labor ("DOL") issued proposed regulations on July 23, 2026, proposing a new, additional safe harbor electronic disclosure alternative for group health plans.

Currently, a safe harbor electronic disclosure alternative adopted by the DOL in 2002 is available to Plan Administrators to satisfy ERISA disclosure requirements. Under the DOL 2002 safe harbor, pension plans and welfare benefit plans may furnish required ERISA disclosures electronically to participants who either (1) have work-related access to electronic systems or (2) provide affirmative consent to receive documents electronically.

In 2020, the DOL adopted an additional safe harbor electronic disclosure alternative for pension plans. The DOL 2020 safe harbor is applicable when participants provide their employer, plan sponsor, or plan administrator with an electronic address, such as an email address or a smartphone number. Plan administrators must furnish a Notice of Internet Availability ("NOIA") for each of the required ERISA documents.

The new 2026 proposed regulations largely mirror the 2020 guidance making the additional safe harbor electronic disclosure alternative available to group health plans. The proposal would permit group health plan administrators to furnish ERISA documents by posting the documents on the internet website and providing the covered individual with an NOIA. The NOIA must be furnished electronically to the electronic address provided by the covered individual or assigned to the individual by the employer. The plan administrator must ensure that a website exists where covered individuals are able to access ERISA documents and the documents are available on the website no later than the date on which they are required to be furnished under ERISA. The website may also be established and maintained by the issuer of group health insurance or by a third-party administrator or other service provider. The NOIA should be furnished when the ERISA document is initially issued and annually until the ERISA document is replaced or is no longer applicable. The annual NOIA may cover multiple ERISA documents.

If finalized, the additional safe harbor electronic disclosure alternative may be available January 1, 2027. Individuals who prefer to receive disclosures on paper will be able to request paper copies and to opt out of electronic delivery entirely.

The purpose of the additional electronic safe harbor alternative is to ensure participants in group health plans receive disclosures in a manner that is accessible, timely and aligned with modern communication practices. The DOL also expects that the effectiveness of the disclosures will improve and the costs will be significantly reduced to group health plans for the recurring disclosures.

The content herein is provided for educational and informational purposes only and does not contain legal advice. Please contact our office if you have any questions about compliance requirements applicable to your employee benefit plans or other HR compliance matters.

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