



News & Types: Employment, Labor & Benefits Update

# Masuda Funai Benefits Newsflash - Plan Documents and Summary Plan Descriptions

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All companies, regardless of size, that sponsor a welfare plan (life, medical, dental, disability, vision, etc.) must ensure that (1) these plans are established via a plan document, and (2) employees are provided a summary plan description. Many companies do not maintain a plan document and mistakenly assume that the certificate of insurance provided by the insurance company that describes the insurance coverage qualifies as a summary plan description. ERISA § 402 provides that every employee benefit plan must be maintained pursuant to a written instrument that provides a procedure for establishing and carrying out a funding policy, describes any procedure under the plan for the allocation of responsibilities for the operation and administration of the plan, provides a procedure for amending the plan and for identifying the persons who have authority to amend the plan, and specifies the basis on which payments are made to and from the plan. ERISA § 102(b) provides that summary plan descriptions must be furnished to participants and beneficiaries. The summary plan description must be written in a manner calculated to be understood by the average plan participant, and must be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan. Because the certificate of insurance provided by an insurance company does not include all of the information required of a summary plan description, many companies use a wrap document that “wraps around” the certificate of insurance and provides the missing summary plan description content requirements.

Having a plan document(s) and summary plan description(s) helps ensure compliance. More importantly, the existence of required plan documents enables the company to respond to employee and beneficiary requests, ensure availability during DOL welfare plan audits, and may assist the company in defending its actions in ERISA litigation.