

§ 2520.104b-30

29 CFR Ch. XXV (7-1-25 Edition)

§ 2520.104b-30 Charges for documents.

(a) Application. The plan administrator of an employee benefit plan may impose a reasonable charge to cover the cost of furnishing to participants and beneficiaries upon their written request as required under section 104(b)(4) of the Act, copies of the following information, statements or documents: The latest updated summary plan description, and the latest annual report, any terminal report, the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established or operated. Except where explicitly permitted under the Act, no charge may be assessed for furnishing information, statements or documents as required by other provisions of the Act, which include, in part 1 of title I, sections 104(b)(1), (2), (3) and (c) and 105(a) and (c).

(b) Reasonableness. The charge assessed by the plan administrator to cover the costs of furnishing documents is reasonable if it is equal to the actual cost per page to the plan for the least expensive means of acceptable reproduction, but in no event may such charge exceed 25 cents per page. For example, if a plan printed a large number of pamphlets at \$1.00 per 50-page pamphlet, the actual cost of reproduction for the entire pamphlet (\$1.00) would be equal to 2 cents per page. If only one page of such a pamphlet were requested, the actual cost of providing that page from the printed copy would be \$1.00, since the copy would no longer be complete. In such a case, the least expensive means of acceptable reproduction would be individually reproducing the page requested at a charge of no more than 25 cents. On the other hand, if six pages of the same plan document were requested and each page cost 20 cents to be reproduced, the actual cost of providing those pages would be \$1.20. In such a case, if a printed copy is available, the least expensive means of acceptable reproduction would be to use pages from the printed copy at a charge of no more than \$1.00. No other charge for furnishing documents, such as handling or postage charges, will be deemed reasonable. The plan administrator shall provide information to a plan partici-

part or beneficiary, upon request, about the charge that would be made to provide a copy of material described in this paragraph.

[41 FR 16964, Apr. 23, 1976, as amended at 41 FR 37575, Sept. 7, 1976; 75 FR 9342, Mar. 2, 2010]

§ 2520.104b-31 Alternative method for disclosure through electronic media—Notice-and-access.

(a) Alternative method for disclosure through electronic media—Notice-and-access. As an alternative to § 2520.104b-1(c), the administrator of an employee benefit plan satisfies the general furnishing obligation in § 2520.104b-1(b)(1) with respect to covered individuals and covered documents, provided that the administrator complies with the notice, access, and other requirements of paragraphs (b) through (k) of this section, as applicable.

(b) Covered individual. For purposes of this section, a “covered individual” is a participant, beneficiary, or other individual entitled to covered documents and who—when he or she begins participating in the plan, as a condition of employment, or otherwise—provides the employer, plan sponsor, or administrator (or an appropriate designee of any of the foregoing) with an electronic address, such as an electronic mail (“email”) address or internet-connected mobile-computing-device (e.g., “smartphone”) number, at which the covered individual may receive a written notice of internet availability, described in paragraph (d) of this section, or an email described in paragraph (k) of this section. Alternatively, if an electronic address is assigned by an employer to an employee for employment-related purposes that include but are not limited to the delivery of covered documents, the employee is treated as if he or she provided the electronic address.

(c) Covered documents. For purposes of this section, a “covered document” is:

(1) Pension benefit plans. In the case of an employee pension benefit plan, as defined in section 3(2) of the Act, any document or information that the administrator is required to furnish to participants and beneficiaries pursuant to Title I of the Act, except for any

document or information that must be furnished only upon request.

(2) [Reserved]

(d) *Notice of internet availability*—(1) *General.* The administrator must furnish to each covered individual a notice of internet availability for each covered document in accordance with the requirements of this section.

(2) *Timing of notice of internet availability.* A notice of internet availability must be furnished at the time the covered document is made available on the website described in paragraph (e) of this section. However, if an administrator furnishes a combined notice of internet availability for more than one covered document, as permitted under paragraph (i) of this section, the requirements of this paragraph (d)(2) are treated as satisfied if the combined notice of internet availability is furnished each plan year, and, if the combined notice of internet availability was furnished in the prior plan year, no more than 14 months following the date the prior plan year's notice was furnished.

(3) *Content of notice of internet availability.* (i) A notice of internet availability furnished pursuant to this section must contain the information set forth in paragraphs (d)(3)(i)(A) through (H) of this section:

(A) A prominent statement—for example as a title, legend, or subject line—that reads: “Disclosure About Your Retirement Plan.”

(B) A statement that reads: “Important information about your retirement plan is now available. Please review this information.”

(C) An identification of the covered document by name (for example, a statement that reads: “your Quarterly Benefit Statement is now available”) and a brief description of the covered document if identification only by name would not reasonably convey the nature of the covered document.

(D) The internet website address, or a hyperlink to such address, where the covered document is available. The website address or hyperlink must be sufficiently specific to provide ready access to the covered document and will satisfy this standard if it leads the covered individual either directly to the covered document or to a login

page that provides, or immediately after a covered individual logs on provides, a prominent link to the covered document.

(E) A statement of the right to request and obtain a paper version of the covered document, free of charge, and an explanation of how to exercise this right.

(F) A statement of the right, free of charge, to opt out of electronic delivery and receive only paper versions of covered documents, and an explanation of how to exercise this right.

(G) A cautionary statement that the covered document is not required to be available on the website for more than one year or, if later, after it is superseded by a subsequent version of the covered document.

(H) A telephone number to contact the administrator or other designated representative of the plan.

(ii) A notice of internet availability furnished pursuant to this section may contain a statement as to whether action by the covered individual is invited or required in response to the covered document and how to take such action, or that no action is required, provided that such statement is not inaccurate or misleading.

(4) *Form and manner of furnishing notice of internet availability.* A notice of internet availability must:

(i) Be furnished electronically to the address referred to in paragraph (b) of this section;

(ii) Contain only the content specified in paragraph (d)(3) of this section, except that the administrator may include pictures, logos, or similar design elements, so long as the design is not inaccurate or misleading and the required content is clear;

(iii) Be furnished separately from any other documents or disclosures furnished to covered individuals, except as permitted under paragraph (i) of this section; and

(iv) Be written in a manner calculated to be understood by the average plan participant.

(e) *Standards for internet website.* (1) The administrator must ensure the existence of an internet website at which a covered individual is able to access covered documents.

(2) The administrator must take measures reasonably calculated to ensure that:

(i) The covered document is available on the website no later than the date on which the covered document must be furnished under the Act;

(ii) The covered document remains available on the website at least until the date that is one year after the date the covered document is made available on the website pursuant to paragraph (e)(2)(i) of this section or, if later, the date it is superseded by a subsequent version of the covered document;

(iii) The covered document is presented on the website in a manner calculated to be understood by the average plan participant;

(iv) The covered document is presented on the website in a widely-available format or formats that are suitable to be both read online and printed clearly on paper;

(v) The covered document can be searched electronically by numbers, letters, or words; and

(vi) The covered document is presented on the website in a widely-available format or formats that allow the covered document to be permanently retained in an electronic format that satisfies the requirements of paragraph (e)(2)(iv) of this section.

(3) The administrator must take measures reasonably calculated to ensure that the website protects the confidentiality of personal information relating to any covered individual.

(4) For purposes of this section, the term *website* means an internet website, or other internet or electronic-based information repository, such as a mobile application, to which covered individuals have been provided reasonable access.

(f) *Right to copies of paper documents or to opt out of electronic delivery.* (1) Upon request from a covered individual, the administrator must promptly furnish to such individual, free of charge, a paper copy of a covered document. Only one paper copy of any covered document must be provided free of charge under this section.

(2) Covered individuals must have the right, free of charge, to globally opt out of electronic delivery and receive

only paper versions of covered documents. Upon request from a covered individual, the administrator must promptly comply with such an election.

(3) The administrator must establish and maintain reasonable procedures governing requests or elections under paragraphs (f)(1) and (2) of this section. The procedures are not reasonable if they contain any provision, or are administered in a way, that unduly inhibits or hampers the initiation or processing of a request or election.

(4) The system for furnishing a notice of internet availability must be designed to alert the administrator of a covered individual's invalid or inoperable electronic address. If the administrator is alerted that a covered individual's electronic address has become invalid or inoperable, such as if a notice of internet availability sent to that address is returned as undeliverable, the administrator must promptly take reasonable steps to cure the problem (for example, by furnishing a notice of internet availability to a valid and operable secondary electronic address that had been provided by the covered individual, if available, or obtaining a new valid and operable electronic address for the covered individual) or treat the covered individual as if he or she made an election under paragraph (f)(2) of this section. If the covered individual is treated as if he or she made an election under paragraph (f)(2) of this section, the administrator must furnish to the covered individual, as soon as is reasonably practicable, a paper version of the covered document identified in the undelivered notice of internet availability.

(g) *Initial notification of default electronic delivery and right to opt out.* The administrator must furnish to each individual, prior to the administrator's reliance on this section with respect to such individual, a notification on paper that covered documents will be furnished electronically to an electronic address; identification of the electronic address that will be used for the individual; any instructions necessary to access the covered documents; a cautionary statement that the covered document is not required to be available on the website for more than one

year or, if later, after it is superseded by a subsequent version of the covered document; a statement of the right to request and obtain a paper version of a covered document, free of charge, and an explanation of how to exercise this right; and a statement of the right, free of charge, to opt out of electronic delivery and receive only paper versions of covered documents, and an explanation of how to exercise this right. A notification furnished pursuant to this paragraph (g) must be written in a manner calculated to be understood by the average plan participant.

(h) *Special rule for severance from employment.* At the time a covered individual who is an employee, and for whom an electronic address assigned by an employer pursuant to paragraph (b) of this section is used to furnish covered documents, severs from employment with the employer, the administrator must take measures reasonably calculated to ensure the continued accuracy and availability of such electronic address or to obtain a new electronic address that enables receipt of covered documents following the individual's severance from employment.

(i) *Special rule for annual combined notices of internet availability.* Notwithstanding the requirements in paragraphs (d)(4)(ii) and (iii) of this section, an administrator may furnish one notice of internet availability that incorporates or combines the content required by paragraph (d)(3) of this section with respect to one or more of the following:

(1) A summary plan description, as required pursuant to section 104(a) of the Act;

(2) Any covered document or information that must be furnished annually, rather than upon the occurrence of a particular event, and does not require action by a covered individual by a particular deadline;

(3) Any other covered document if authorized in writing by the Secretary of Labor, by regulation or otherwise, in compliance with section 110 of the Act; and

(4) Any applicable notice required by the Internal Revenue Code if authorized in writing by the Secretary of the Treasury.

(j) *Reasonable procedures for compliance.* The conditions of this section are satisfied, notwithstanding the fact that the covered documents described in paragraph (b) of this section are temporarily unavailable for a reasonable period of time in the manner required by this section due to technical maintenance or unforeseeable events or circumstances beyond the control of the administrator, provided that:

(1) The administrator has reasonable procedures in place to ensure that the covered documents are available in the manner required by this section; and

(2) The administrator takes prompt action to ensure that the covered documents become available in the manner required by this section as soon as practicable following the earlier of the time at which the administrator knows or reasonably should know that the covered documents are temporarily unavailable in the manner required by this section.

(k) *Alternative method for disclosure through email systems.* Notwithstanding any other provision of this section, an administrator satisfies the general furnishing obligation in § 2520.104b-1(b)(1) by using an email address to furnish a covered document to a covered individual, provided that:

(1) The covered document is sent to a covered individual's email address, referred to in paragraph (b) of this section, no later than the date on which the covered document must be furnished under the Act.

(2) In lieu of furnishing a notice of internet availability pursuant to paragraph (d) of this section, the administrator sends an email pursuant to this paragraph (k) that:

(i) Includes the covered document in the body of the email or as an attachment;

(ii) Includes a subject line that reads: "Disclosure About Your Retirement Plan";

(iii) Includes the information described in paragraph (d)(3)(i)(C) of this section if the covered document is an attachment (identification or brief description of the covered document), paragraphs (d)(3)(i)(E) (statement of right to paper copy of covered document), (d)(3)(i)(F) (statement of right to opt out of electronic delivery), and

(d)(3)(i)(H) (a telephone number) of this section; and

(iv) Complies with paragraph (d)(4)(iv) of this section (relating to readability).

(3) The covered document is:

(i) Written in a manner reasonably calculated to be understood by the average plan participant;

(ii) Presented in a widely-available format or formats that are suitable to be read online, printed clearly on paper, and permanently retained in an electronic format that satisfies the preceding requirements in this sentence; and

(iii) Searchable electronically by numbers, letters, or words.

(4) The administrator:

(i) Takes measures reasonably calculated to protect the confidentiality of personal information relating to the covered individual; and

(ii) Complies with paragraphs (f) (relating to copies of paper documents or the right to opt out); (g) (relating to the initial notification of default electronic delivery), except for the cautionary statement; and (h) (relating to severance from employment) of this section.

(1) *Dates; severability.* (1) This section is applicable July 27, 2020.

(2) If any provision of this section is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of invalidity or unenforceability, in which event the provision shall be severable from this section and shall not affect the remainder thereof.

[85 FR 31922, May 27, 2020]

§§ 2520.105-1—2520.105-2 [Reserved]

§ 2520.105-3 **Lifetime income disclosure for individual account plans.**

(a) *Content requirements.* At least annually, the administrator of an individual account plan must furnish a benefit statement pursuant to section 105(a) of the Employee Retirement Income Security Act of 1974 (Act) that is written in a manner calculated to be understood by the average plan partici-

pant and that contains the information required by this section, based on the latest information available to the plan.

(b) *Total benefits accrued; lifetime income disclosure.* A benefit statement described in paragraph (a) of this section must include:

(1) The beginning and ending dates of the statement period;

(2) The value of the account balance as of the last day of the statement period, excluding the value of any deferred income annuity described in paragraph (e)(2) of this section;

(3) The amount specified in paragraph (b)(2) of this section expressed as an equivalent lifetime income stream payable in equal monthly payments for the life of the participant (single life annuity), determined in accordance with paragraph (c) or (e)(1) of this section; and

(4) The amount specified in paragraph (b)(2) of this section expressed as an equivalent lifetime income stream payable in equal monthly payments for the joint lives of the participant and spouse (qualified joint and survivor annuity), determined in accordance with paragraph (c) or (e)(1) of this section.

(c) *Assumptions for converting an account balance into lifetime income streams.* The account balance specified in paragraph (b)(2) of this section shall be converted to the lifetime income streams described in paragraphs (b)(3) and (4) of this section using the following assumptions:

(1) *Commencement date and age.* (i) The first payment is made on the last day of the statement period (the commencement date); and

(ii) The participant is age 67 on the commencement date, unless the participant is older than age 67, in which case the participant's actual age must be used for the conversions under this section.

(2) *Marital status.* For purposes of paragraph (b)(4) of this section (relating to qualified joint and survivor annuity illustrations):

(i) The participant has a spouse that is the same age as the participant; and

(ii) The survivor annuity percentage is equal to 100% of the monthly payment that is payable during the joint lives of the participant and spouse.