

of the enactment of this Act [Aug. 17, 2006], the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1021(f)]. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

Pub. L. 109-280, title V, §503(e), Aug. 17, 2006, 120 Stat. 945, as amended by Pub. L. 110-458, title I, §105(c)(2), Dec. 23, 2008, 122 Stat. 5105, provided that: “Not later than 1 year after the date of the enactment of this Act [Aug. 17, 2006], the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 104(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1024(d)], as amended by this section. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.”

Pub. L. 109-280, title V, §507(c), Aug. 17, 2006, 120 Stat. 949, provided that: “The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection [Aug. 17, 2006], prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section [amending this section and section 1132 of this title].”

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JULY 30, 2002

For provisions directing that if any amendment made by section 306(b) of Pub. L. 107-204 requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after July 30, 2002, see section 7244(b)(3) of Title 15, Commerce and Trade.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of Title 26, Internal Revenue Code.

### § 1022. Summary plan description

(a) A summary plan description of any employee benefit plan shall be furnished to participants and beneficiaries as provided in section 1024(b) of this title. The summary plan description shall include the information described in subsection (b), shall be written in a manner calculated to be understood by the average plan participant, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan. A summary of any material modification in the terms of the plan and any change in the information required under subsection (b) shall be written in a manner calculated to be understood by the average plan participant and shall be furnished in accordance with section 1024(b)(1) of this title.

(b) The summary plan description shall contain the following information: The name and type of administration of the plan; in the case of a group health plan (as defined in section 1191b(a)(1) of this title), whether a health insurance issuer (as defined in section 1191b(b)(2) of this title) is responsible for the financing or administration (including payment of claims) of the plan and (if so) the name and address of such issuer; the name and address of the person designated as agent for the service of legal process,

if such person is not the administrator; the name and address of the administrator; names, titles, and addresses of any trustee or trustees (if they are persons different from the administrator); a description of the relevant provisions of any applicable collective bargaining agreement; the plan’s requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the source of financing of the plan and the identity of any organization through which benefits are provided; the date of the end of the plan year and whether the records of the plan are kept on a calendar, policy, or fiscal year basis; the procedures to be followed in presenting claims for benefits under the plan including the office at the Department of Labor through which participants and beneficiaries may seek assistance or information regarding their rights under this chapter and the Health Insurance Portability and Accountability Act of 1996 with respect to health benefits that are offered through a group health plan (as defined in section 1191b(a)(1) of this title), the remedies available under the plan for the redress of claims which are denied in whole or in part (including procedures required under section 1133 of this title), and if the employer so elects for purposes of complying with section 1181(f)(3)(B)(i) of this title, the model notice applicable to the State in which the participants and beneficiaries reside.

(Pub. L. 93-406, title I, §102, Sept. 2, 1974, 88 Stat. 841; Pub. L. 104-191, title I, §101(c)(2), Aug. 21, 1996, 110 Stat. 1951; Pub. L. 104-204, title VI, §603(b)(3)(C), Sept. 26, 1996, 110 Stat. 2938; Pub. L. 105-34, title XV, §1503(b), Aug. 5, 1997, 111 Stat. 1061; Pub. L. 111-3, title III, §311(b)(1)(B), Feb. 4, 2009, 123 Stat. 67.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b), is Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 1936. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of Title 42, The Public Health and Welfare, and Tables.

##### AMENDMENTS

2009—Subsec. (b). Pub. L. 111-3 substituted “, the remedies” for “and the remedies” and inserted “, and if the employer so elects for purposes of complying with section 1181(f)(3)(B)(i) of this title, the model notice applicable to the State in which the participants and beneficiaries reside” before the period at end.

1997—Pub. L. 105-34, §1503(b)(2)(B), substituted “Summary plan description” for “Plan description and summary plan description” in section catchline.

Subsec. (a). Pub. L. 105-34, §1503(b)(1), struck out “(1)” after subsec. designation and struck out par. (2) which read as follows: “A plan description (containing the information required by subsection (b)) of any em-

ployee benefit plan shall be prepared on forms prescribed by the Secretary, and shall be filed with the Secretary as required by section 1024(a)(1) of this title. Any material modification in the terms of the plan and any change in the information described in subsection (b) shall be filed in accordance with section 1024(a)(1)(D) of this title."

Subsec. (b). Pub. L. 105-34, § 1503(b)(2)(A), substituted "The summary plan description shall contain" for "The plan description and summary plan description shall contain".

1996—Subsec. (b). Pub. L. 104-204 made technical amendment to references in original act which appear in text as references to section 1191b of this title.

Pub. L. 104-191 inserted "in the case of a group health plan (as defined in section 1191b(a)(1) of this title), whether a health insurance issuer (as defined in section 1191b(b)(2) of this title) is responsible for the financing or administration (including payment of claims) of the plan and (if so) the name and address of such issuer;" after "type of administration of the plan;" and "including the office at the Department of Labor through which participants and beneficiaries may seek assistance or information regarding their rights under this chapter and the Health Insurance Portability and Accountability Act of 1996 with respect to health benefits that are offered through a group health plan (as defined in section 1191b(a)(1) of this title)" after "presenting claims for benefits under the plan".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of Title 42, The Public Health and Welfare.

##### EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-204 applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998, see section 603(c) of Pub. L. 104-204 set out as a note under section 1003 of this title.

Amendment by Pub. L. 104-191 applicable with respect to group health plans for plan years beginning after June 30, 1997, except as otherwise provided, see section 101(g) of Pub. L. 104-191, set out as an Effective Date note under section 1181 of this title.

##### REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

### § 1023. Annual reports

#### (a) Publication and filing

(1)(A) An annual report shall be published with respect to every employee benefit plan to which this part applies. Such report shall be filed with the Secretary in accordance with section 1024(a) of this title, and shall be made available and furnished to participants in accordance with section 1024(b) of this title.

(B) The annual report shall include the information described in subsections (b) and (c) and where applicable subsections (d), (e), (f), and (g) and shall also include—

- (i) a financial statement and opinion, as required by paragraph (3) of this subsection, and
- (ii) an actuarial statement and opinion, as required by paragraph (4) of this subsection.

(2) If some or all of the information necessary to enable the administrator to comply with the

requirements of this subchapter is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the plan, or holds assets of the plan in a separate account,

(B) a bank or similar institution which holds some or all of the assets of the plan in a common or collective trust or a separate trust, or custodial account, or

(C) a plan sponsor as defined in section 1002(16)(B) of this title,

such carrier, organization, bank, institution, or plan sponsor shall transmit and certify the accuracy of such information to the administrator within 120 days after the end of the plan year (or such other date as may be prescribed under regulations of the Secretary).

(3)(A) Except as provided in subparagraph (C), the administrator of an employee benefit plan shall engage, on behalf of all plan participants, an independent qualified public accountant, who shall conduct such an examination of any financial statements of the plan, and of other books and records of the plan, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual reports by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards, and shall involve such tests of the books and records of the plan as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(3) of this section and the summary material required under section 1024(b)(3) of this title present fairly, and in all material respects the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report. In a case where a plan is not required to file an annual report, the requirements of this paragraph shall not apply. In a case where by reason of section 1024(a)(2) of this title a plan is required only to file a simplified annual report, the Secretary may waive the requirements of this paragraph.

(B) In offering his opinion under this section the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary, if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(3)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(D) For purposes of this subchapter, the term "qualified public accountant" means—

- (i) a person who is a certified public accountant, certified by a regulatory authority of a State;