

this section to any participant covered under the plan who would reasonably be expected to be furnished such summary in connection with a system of communication maintained by the plan sponsor or administrator, with respect to which plan participants are provided information concerning their plan, including modifications and changes thereto, at regular intervals of not more than 90 days and such communication otherwise meets the disclosure requirements of 29 CFR 2520.104b-1.

(3) *“Material reduction”*. (i) For purposes of this paragraph (d), a “material reduction in covered services or benefits” means any modification to the plan or change in the information required to be included in the summary plan description that, independently or in conjunction with other contemporaneous modifications or changes, would be considered by the average plan participant to be an important reduction in covered services or benefits under the plan.

(ii) A “reduction in covered services or benefits” generally would include any plan modification or change that: eliminates benefits payable under the plan; reduces benefits payable under the plan, including a reduction that occurs as a result of a change in formulas, methodologies or schedules that serve as the basis for making benefit determinations; increases premiums, deductibles, coinsurance, copayments, or other amounts to be paid by a participant or beneficiary; reduces the service area covered by a health maintenance organization; establishes new conditions or requirements (e.g., preauthorization requirements) to obtaining services or benefits under the plan.

(e) *Applicability date*. Paragraph (d) of this section is applicable as of the first day of the first plan year beginning after June 30, 1997.

(f)-(g) [Reserved]

(Approved by the Office of Management and Budget under control number 1210-0039)

[42 FR 37188, July 19, 1977, as amended at 62 FR 16985, Apr. 8, 1997; 62 FR 36205, July 7, 1997; 65 FR 70243, Nov. 21, 2000; 66 FR 34994, July 2, 2001; 67 FR 777, Jan. 7, 2002]

§ 2520.104b-4 Alternative methods of compliance for furnishing the summary plan description and summaries of material modifications of a pension plan to a retired participant, a separated participant with vested benefits, and a beneficiary receiving benefits.

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) *Summary plan descriptions*. A plan administrator will be deemed to satisfy the requirements of section 104(b)(1) of the Act and § 2520.104b-2(a) to furnish a copy of the initial summary plan description to a retired participant, a beneficiary receiving benefits, or a separated participant with vested benefits (“vested separated participant”) if, no earlier than the date stated in paragraph (a)(4) of this section,

(1) In the case of a retired participant or a beneficiary receiving benefits, a document is furnished which—

(i) Meets the requirements of §§ 2520.102-2 and 2520.102-3 except paragraphs (b)(3), (b)(4), (j), (k), (l), (n), (o) and (p);

(ii) Contains a statement that the benefit payment presently being received by the retired participant or beneficiary receiving benefits will continue in the same amount and for the period provided in the mode of settlement selected at retirement, and will not be changed except as described in paragraph (a)(1)(iii) of this section; and

(iii) Contains a statement describing any plan provision under which the present benefit payment may be reduced, changed, terminated, forfeited or suspended;

(2) In the case of a vested separated participant, a document is furnished which—

(i) Meets the requirements of §§ 2520.102-2 and 2520.102-3 except paragraphs (b)(3), (b)(4), (j), (l), (n), (o), (p) and (r);

(ii)(A) If at or after separation, a separated vested participant was furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, includes a statement that the dollar amount of the vested benefit was previously furnished and that a copy of the previously furnished statement of the dollar amount of such vested benefit or

method of computation of the benefit may be obtained from the plan upon request;

(B) If the vested separated participant was not furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, the plan furnishes either a statement of the dollar amount of the vested benefit, or a statement of the formula used to determine the dollar amount of the vested benefit;

(iii) Includes a statement of the form in which the benefits will be paid and duration of the payment period or a description of the optional modes of payment available under the plan; and

(iv) Includes a statement describing any plan provision under which a benefit may be reduced, changed, terminated, forfeited or suspended; or

(3)(i) Such retired participant, vested separated participant, or beneficiary receiving benefits was furnished with a copy of a document which—

(A) Satisfies the requirements of section 102(a)(1) of the Act and § 2520.102-2 (relating to the style and format of the summary plan description) and § 2520.102-3 (relating to the content of the summary plan description);

(B) Describes the rights and obligations under the plan of such retired participant, vested separated participant, or beneficiary receiving benefits as of the date stated in subparagraph (4);

(ii) In the case of a person who retired, became a beneficiary, or separated with vested benefits before November 16, 1977, a document will be deemed to comply with the requirements of paragraph (a)(2)(i) of this section if the document omitted only information described in one or more of the provisions of § 2520.102-3 listed below, provided that a supplement containing such information, which meets the requirements of § 2520.102-2, is furnished to the retired participant, vested separated participant, or beneficiary receiving benefits by November 16, 1977.

(A) Employer identification number (EIN), as required by § 2520.102-3(c);

(B) Type of administration, as required by § 2520.102-3(e);

(C) Name of agent for service of legal process, as required by § 2520.102-3(g);

(D) Names and addresses of trustees, as required by § 2520.102-3(h);

(E) Statement regarding plan termination insurance as required by § 2520.102-3(m);

(F) Date of the end of the fiscal year, as required by § 2520.102-3(r); or

(G) Statement of ERISA rights, as required by § 2520.102-3(t).

(4) For purposes of this paragraph the dates are: For a vested separated participant, the date of separation; for a beneficiary, the date on which payment of benefits commences; and for a retired participant, the date of retirement.

(b) *Updated summary plan descriptions.* A copy of an updated summary plan description need not be furnished as prescribed in section 104(b)(1) of the Act and § 2520.104b-2(b) to a retired participant, vested separated participant, or a beneficiary receiving benefits if—

(1)(i) On or after the date stated in paragraph (b)(1)(ii) of this section, the retired participant, vested separated participant, or beneficiary is furnished with a copy of the most recent summary plan description and a copy of any summaries of material modifications not incorporated in such summary plan description;

(ii) For purposes of paragraph (b)(1)(i) of this section the dates are: for a retired participant, the date of retirement; for a vested separated participant, the date of separation; and for a beneficiary, the date on which payment of benefits commences;

(2) No later than the date on which an updated summary plan description is furnished to participants and beneficiaries as prescribed by section 104(b)(1) of the Act and § 2520.104b-2(b), a retired participant, vested separated participant, or beneficiary receiving benefits is furnished a notice containing the following:

(i) A statement that the benefit rights of such retired participant, vested separated participant, or beneficiary receiving benefits are set forth in the earlier summary plan description and any subsequently furnished summaries of material modifications (*see* paragraph (c)), and

(ii) A statement that such retired participant, vested separated participant, or beneficiary receiving benefits

may obtain a copy of the earlier summary plan description and summaries of material modifications described in paragraph (b)(2)(i) of this section, and the updated summary plan description, without charge, upon request, from the plan administrator; and

(3) The plan administrator furnishes a copy of the documents described in paragraph (b)(2)(ii) of this section to such retired participant, vested separated participant or beneficiary, without charge, upon request.

(c) *Summary of material modifications or changes.* A summary description of a material modification to the plan or a change in the information required to be included in the summary plan description need not be furnished to a retired participant, a vested separated participant or a beneficiary receiving benefits under the plan, within the time prescribed in section 104(b)(1) of the Act and § 2520.104b-3 for furnishing summary descriptions of such modifications and changes, if the material modification or change in no way affects such retired participant's, vested separated participant's, or beneficiary's rights under the plan. For example, a change in trustees is information which such a person may need to know in order to make inquiries about his or her rights expeditiously, and hence must be furnished. On the other hand, a modification in benefits under the plan to which such retired participant, vested separated participant, or beneficiary had not at any time been entitled (and would not in the future be entitled) would not affect his or her rights and hence need not be furnished. If such retired participant, vested separated participant, or beneficiary requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

[45 FR 14032, Mar. 4, 1980, as amended at 61 FR 33850, July 1, 1996]

§ 2520.104b-10 Summary Annual Report.

(a) *Obligation to furnish.* Except as otherwise provided in paragraph (g) of this section, the administrator of any employee benefit plan shall furnish annually to each participant of such plan

and to each beneficiary receiving benefits under such plan (other than beneficiaries under a welfare plan) a summary annual report conforming to the requirements of this section. Such furnishing of the summary annual report shall take place in accordance with the requirements of § 2520.104b-1 of this part.

(b) [Reserved]

(c) *When to furnish.* Except as otherwise provided in this paragraph (c), the summary annual report required by paragraph (a) of this section shall be furnished within nine months after the close of the plan year.

(1) In the case of a welfare plan described in § 2520.104-43 of this part, such furnishing shall take place within 9 months after the close of the fiscal year of the trust or other entity which files the annual report under § 2520.104a-6 of this part.

(2) When an extension of time in which to file an annual report has been granted by the Internal Revenue Service, such furnishing shall take place within 2 months after the close of the period for which the extension was granted.

(d) *Contents, style and format.* Except as otherwise provided in this paragraph (d), the summary annual report furnished to participants and beneficiaries of an employee pension benefit plan pursuant to this section shall consist of a completed copy of the form prescribed in paragraph (d)(3) of this section, and the summary annual report furnished to participants and beneficiaries of an employee welfare benefit plan pursuant to this section shall consist of a completed copy of the form prescribed in paragraph (d)(4) of this section. The information used to complete the form shall be based upon information contained in the most recent annual report of the plan which is required to be filed in accordance with section 104(a)(1) of the Act.

(1) Any portion of the forms set forth in this paragraph (d) which is not applicable to the plan to which the summary annual report relates, or which would require information which is not required to be reported on the annual report of that plan, may be omitted.

(2) Where the plan administrator determines that additional explanation of