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DOL E-Delivery Push Pleases Mgmt. And Worker Attys Alike

By **Kellie Mejdrich**

Law360 (July 24, 2026, 1:55 PM EDT) -- Recently proposed U.S. Department of Labor regulations that would encourage e-delivery of employee health plan documents are winning plaudits from both sides of the benefits bar for potentially streamlining the process and augmenting online transparency.

The DOL's Employee Benefits Security Administration published the **proposed rule** in the Federal Register on Thursday, kicking off a public comment window running through Sept. 21. The regulations could allow for sponsors and administrators of health plans regulated by the Employee Retirement Income Security Act to meet their compliance obligations more efficiently and at a lower cost, management-side lawyers said.

"I think this is very welcome news for plan sponsors," said Sage Fattahian, a partner in Morgan Lewis & Bockius LLP's employee benefits practice who represents employer health plan sponsors, noting that the current "archaic disclosure rules" related to ERISA health and welfare plans allow for much less e-delivery.

Plaintiff-side practitioners also spoke positively about how having improved access to health and welfare plan information could benefit workers by helping them understand their coverage rights in a more convenient way.

Here are three things to know about the DOL's proposal.

Online Access, Saving Paper Go Over Well

Both management- and plaintiff-side benefits attorneys said that the changes were likely to be helpful for workers and employers, at a time when the two sides don't agree on many other proposals under construction at the DOL.

Plaintiff-side attorneys highlighted the potentially positive changes the new proposal could bring in terms of giving workers more information about their health plans. The proposed rule also contains specific provisions allowing health plan participants to opt out and keep receiving paper disclosures if they want, including terms for an initial notification that plan sponsors must provide if they want to move more things online using a new safe harbor.

"This seems like a very good thing, especially if the disclosures remain permanently available through a portal," said plaintiff-side attorney Carl Engstrom, who is co-founder and partner at Engstrom Lee LLC.

Engstrom said the disclosure changes also "should remove obstacles to [employers] publishing the entirety of their plan document, meaning not only the plan document itself but also all of the secret rules that the health insurance company makes that it then uses to deny your health claims."

Fattahian, with Morgan Lewis, said she's not expecting a lot of debate over the changes. She contrasted the proposal's comment potential with EBSA's recent **health plan fee disclosure rule** affecting pharmacy benefit managers, which received nearly 600 comments before the window closed for input in April.

"I did not see anything remotely controversial … I would expect the final rule would not be significantly different than what we've seen in proposed form," Fattahian said.

Fattahian also said that if finalized, the proposed rule is expected to save significant paper because sometimes health plan documents, such as summary plan descriptions, or an explanation of benefits issued after a claim is processed, can be lengthy.

"So, I think it's great both from a participant perspective and also from a plan sponsor perspective," Fattahian said.

It Builds on Retirement Plan Regs Issued in 2020

Attorneys pointed out how the proposal on health plan disclosures expands on a **2020 e-disclosure rule** finalized during the first Trump administration that was focused on ERISA-regulated retirement plans, something EBSA also highlighted in its release.

Like the 2020 rule, the proposal establishes a new safe harbor to expand the use of electronic media as the default form of furnishing information to participants, by laying out conditions for plan sponsors to meet to ensure they're complying with disclosure laws related to their ERISA-regulated plans. The agency also said when **describing the proposed rule** Wednesday that its notice and access provisions mirrored 2020 changes affecting the retirement side.

EBSA said in its proposed rule that the agency received positive feedback from sponsors of ERISA-regulated plans about how the 2020 safe harbor made their retirement plan administration more efficient.

"It seems like a good step forward for electronic disclosure," said Lisa Campbell, principal and co-chair of Groom Law Group's health services practice, who represents health plan sponsors and their service providers.

Campbell said she's watching for what the public comments say, and expected plan sponsors and service providers to voice support for the proposal. She said that when retirement side rules were finalized in 2020, "there was a lot of disappointment that it didn't apply to group health plans."

Campbell said that as a result, the new proposal was heavily anticipated, adding, "I do think everyone was hoping that it would be close to what the retirement plan rule is," by expanding default e-delivery after giving participants notice they can still receive paper.

Questions About Risks Linger

Attorneys also noted how a new safe harbor might lower legal risks for plan sponsors and their administrators on disclosure obligations and bring efficiencies, but other technology changes are presenting new complications.

That was something EBSA touched on in its proposal, noting that while greater e-delivery could reduce risks associated with paper mail, there were also uncertain consequences ahead regarding the potential for data breaches. The agency also specifically requested comments on whether e-delivery improved security of personal and plan information compared to paper.

"Electronic disclosures may introduce different risks, including unauthorized access through compromised accounts or systems," the proposed rule said.

J.J. Conway of J.J. Conway Law, a longtime ERISA practitioner and plaintiff-side attorney, said he saw potential efficiency gains from the proposal.

"Only time will tell if the plan's efficiency gains pay off," Conway said. "It seems they will only pay off when coupled with the diligent management of document accessibility and regular updating and monitoring."

But Conway said plan sponsors should be careful about leaning too far into technology with ERISA plans, particularly with regard to artificial intelligence.

"If plans think this is an issue to be outsourced using AI — AI in its present form — they are in for a surprise," Conway said. "AI is wrong most of the time in benefits administration."

--Editing by Abbie Sarfo.