

Summary Plan Descriptions (SPDs)...

Taking Yours from Legalese to Read with Ease

A Look at How to Create an Effective SPD

First, let us be clear. Write On Target, Inc. is not a legal firm and the intention of this article is not to provide legal advice. Rather, we'll take a look at summary plan descriptions (SPDs) from a communications perspective and how you can make them more effective for your employees and plan participants. We'll help you create a document that they'll actually read and use as intended — to help them.

We'll explore:

- Expectations of SPDs
- Common mistakes
- Writing and formatting for effectiveness
- Meeting legal requirements

Calling All Audiences!

Traditionally, SPDs were seen as the “one hit wonder” document that should describe plan details and meet the needs of a wide range of audiences, including the benefits department, legal counsel, third party administrators, insurance carriers, record keepers, auditors, government agencies, plan actuaries, participants' attorneys, and last but not least, participants.

Considering the wide audience, it's no surprise that many SPDs end up larger than the plans they supposedly summarize.

After years of experience working with a variety of large employers, we've found it's best to narrow the focus to three parties:

1. The participant — who, after all, is the reason the plan exists
2. The plan's legal counsel — who has to defend the document
3. The benefits department — whose sweat and tears built the plan and must ensure it's administered as planned

By keeping a narrow scope, you'll end up with an SPD that fits almost anyone's needs.

But there are still three sets of expectations for one SPD, right?

Read on to see how to remedy that...

Managing Expectations of What an SPD Should Include

Plan participants want answers

Participants don't live and breathe benefits day in and day out. Too often, plan documents assume they do. We've found participants want two simple questions addressed:

1. How does the plan work?
2. What do I have to do?

Many HR professionals feel that participants will only go to the SPD when they want the legal fodder to sue the company. But that's not giving employees enough credit. Participants will actually use an SPD, and view it positively, if it is written and formatted to be user friendly.

Legal counsel wants the right answers

Keeping in mind the adage that "the plan documents rule," the SPD does not have to cover every legal nuance. However, in general, your legal counsel is looking for the SPD to:

1. Provide protection to the plan sponsor/administrator
2. Meet compliance guidelines
3. Minimize the risk of legal action

Although it's important that the SPD provide a level of legal protection, that should not be the driving force. Allowing legal counsel to manage the writing puts the effectiveness and readability of your SPD in jeopardy. It's possible to have your SPD meet legal needs without being mired in legal jargon.

Benefits department wants all the answers

When asked, benefits professionals said they want SPDs to:

1. Stand alone
2. Provide answers to almost every question
3. Cover exceptions
4. Preempt participants' questions

Are they being realistic? One of our clients said, "Too often in my career I have been guilty of expecting the SPD to be the equivalent of *The Great Big Book of Everything* (as featured on the Disney cartoon series of the same name). We want participants to be able to go to the SPD to get any question answered, so we cram it with every possible scenario we can dream up. It can be exhausting!"

A well-written and formatted SPD *can* enhance understanding, provide protection, and be a good resource for answers. And in the end, isn't that what all parties want?

The SPD doesn't need to be mired in legal jargon to do its job. Meet the needs of the plan participants, and you will meet the needs of most legal and benefits groups as well.

How do you write to the plan participants?

Read on...

Writing and Formatting So It's Read

Handing a 120+ page Health and Welfare SPD to new employees on day one and expecting them to get up to speed on all their benefits overnight is unrealistic. In fact, it's highly doubtful they even understand what "health and welfare" means.

To make your SPDs more understandable, and thus, more effective, you need to follow four rules:

1. Limit the jargon
2. Enhance readability
3. Tell a story with examples
4. Provide CliffsNotes®

FSA, CDHP, EOI... oh my!

Jargon is the language, or more specifically, the vocabulary particular to a trade profession or group. If the language you use is characterized by uncommon or pretentious vocabulary and convoluted sentence structures, it's going to be confusing. Add in the generous use of acronyms inherent to our trade — FSA, PPO, CDHP, HSA — and you have a real recipe for disaster.

Not only will participants become confused, they'll get frustrated and end up with a low opinion of their very valuable benefits... simply because the jargon got in the way of understanding.

How do you get away from jargon? Write it the way you'd say it... in plain, common language.

The more complex the information, the more important it is that you speak clearly in plain language. Ask yourself these two questions to avoid falling into the jargon trap:

1. Does the average person know the terminology being used?
2. Is this how I would explain it in a normal conversation?

Whenever you grapple with writing a particularly complex section, sit down and explain the concept to someone outside the benefits department. Play with the wording until it makes perfect sense to your volunteer, then write down what you said.

You don't need to be at the head of the class

In general, most adults read at the sixth- to eighth-grade level. Examples of publications written at these levels are *TV Guide*, *Reader's Digest* and most popular novels. *Time Magazine*, *Newsweek* and most academic papers are written at the 10+ grade level. Anything from the government is over grade 20.

Keep in mind: it's possible to obtain good readability scores, even with gobbledygook, provided the text contains short sentences of one-syllable words. For a document to be easily understood, writing style comes into play. The writing style should be direct, familiar to the audience, and concise.

Here are some guidelines:

- Omit needless words and break up longer sentences. Typically, any sentence over 14 words is too long.
- Be aware of tone. You're trying to have a conversation, not a lecture.
- Use active, first-person language versus passive, second, or third person. For example, use "you" and "your" versus "employee."
- Limit cross-referencing to other sections. This practice breaks up thoughts, hindering reception of the complete picture. Try to keep all pertinent information together whenever possible.
- Remember, it's a summary. Don't try to cover every possible situation. The plan document does that job. (Assuming there is a plan document.) If your SPD is being used as a plan document, then it's no longer an SPD, but a wrap-around plan document.

The other factor of readability is the physical layout of the pages:

- Don't be afraid to use white space between sections. The reader's eyes need to rest once in a while.
- Use a font size that is large enough to be read (generally 12-point type).
- Use columns to increase comprehension. The maximum number of characters we can absorb at a time is 55, which equates to about 8-11 words across.
- Use subheads for quick scanning. Help readers find what they want quickly.

Read by example

There are times when you just need an example to illustrate and simplify a complex topic, or when math is involved. Using true life examples helps readers relate to the text.

Case in point...

Here's how an original SPD text read: Your years of service after June 1, 2019, will equal one-twelfth of your completed months of employment at the ABC Plant after June 1, 2019.

Here's how we would revise it and add an example: In determining your years of benefit service after June 1, 2019, you will receive 1/12th of a year of service for each calendar month you are an eligible employee. For example, if you are an eligible employee for 12 months, you receive 12/12th or one year of benefit service. If you are eligible for eight months, you receive 8/12th of a year of service.

The summary cannot do it all

We need to accept that SPDs are unable to get the job done on their own. An accompanying “user’s guide” has proven to be a very effective resource for participants, reducing call volume and interruptions to the HR staff.

A guide should cover the practical information participants need on a day-to-day basis. Short descriptions of each benefit should be included, but the focus should be more on how to access and use each benefit. You can also include information about matters such as time-off policies, which are considered “benefits” by your employees, even though they do not require an ERISA document.

An SPD (especially for health and welfare) can be up to 120 pages. A benefits user guide can be simplified to just 32 pages.

Another good idea is to include a “Who to Contact” chart. Putting this information all in one chart just makes sense from the user’s perspective. They don’t have to hunt.

But be warned! Double and triple check the information. Call all phone numbers and log on to all websites to ensure they connect to the right vendor or insurance company. Be careful of toll-free area codes (is it 1-800 or 1-888?) and make sure you get the .com, .net, .org part right.

This is all great, but I still need to be sure we’re legally accurate.
We have some thoughts on that...

Meeting the Legal Department’s Need to Protect

You’ve worked hard to ensure your SPD is readable, easy to scan, and speaks to participants clearly and concisely. However, you still have a few legal items to check off your list. Below are common things to remember in creating your SPD:

- Always clearly describe the company’s discretionary powers and reserved rights.
Example:
“The company is empowered to exercise discretion in interpreting the terms of the plan, and such discretionary determinations regarding the plan terms and eligibility shall be final and binding upon all participants. The company reserves the right to change or terminate these plans at any time. These retained rights include both the benefits provided and the level of contribution required.”
- If your SPD is truly an SPD, make sure your plan document is up to date. If your SPD is your plan document, then don’t call it an SPD.
- Compliance portions — ERISA, COBRA, HIPAA — should be reviewed by an ERISA expert periodically.
- Each insurance carrier should formally sign off on their section of the SPD.
- Distribute required notices on time, such as summary of material modifications, summary annual reports, etc.
- Follow your appeal process and meet the deadlines.
- Online posting versus printing is a decision that needs to be made by your legal counsel. However, in all cases, participants need to be able to have access to printed materials upon request.

To summarize...

To create an effective summary plan description you need to:

1. Narrow your focus to the needs of three audiences: participants, legal department, and benefits department.
2. Limit jargon by writing it the way you’d speak it.
3. Enhance readability through your writing style and the layout of the text.
4. Create accompanying materials to enhance understanding.
5. Meet legal requirements, but keep your participants’ needs top of mind.



Remember! If the SPD — and the communication materials that go along with it — meet the participants’ needs, then most of the legal and benefits groups’ needs **will also be met.**

**Don't have time to do it yourself?
Write On Target can do it for you.**

HR communications is all we do. Write On Target is a full-service HR and employee communications company with global Fortune 500 clients. We understand the language of HR and we know how to translate it into everyday language that everyone else understands. And, our talented creative staff helps craft engaging interactions online, onsite, and on paper.