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Comments for the  
Advisory Council on Employee Welfare  
and Pension Benefit Plans (ERISA)  
of the U.S. Department of Labor

For the Council's Session on  
Reducing the Burden and Increasing the Effectiveness  
of Mandated Disclosures

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## Dear Advisory Council on Employee Welfare and Pension Benefit Plans:

Thank you for the opportunity to speak with you, and to provide feedback on the Mandated Disclosures for Retirement Plans and the Mandated Disclosures for Employment-Based Health Benefit Plans. It is an honor to serve the Council. I deeply respect the work that the Council does on behalf of everyday Americans.

I am an applied behavioral scientist, and my research focuses on how user interfaces and communications either enable or hinder individuals from taking action, especially with respect to their finances. The focus of my comments today will be on how disclosures can help plan participants take action to make the most of their benefits programs. In particular, I will address the two proposed Quick Reference Guides for covered health plans and retirement plans, since they have the greatest potential to assist plan participants in taking action.

### Four Questions to Ask

We can think about the effect of a communication on its readers in terms of four questions:<sup>1</sup>

1. **Information.** Is the necessary *information* being conveyed?
2. **Understanding.** Will readers *understand* that information?
3. **Persuasion** (if relevant). If there is a specific goal to *persuade* readers with that information, is it effective?
4. **Action.** What behavioral obstacles may hinder readers from *acting* on that information, and how can those obstacles be overcome?

We tend to design communications in order of #1-#4. However, the most overlooked and vital question is often the last one: we don't think carefully about what is required to help readers actually take *action* on the communication.

For the proposed Quick Reference Guides, the Council's deep expertise well addresses the first question: providing the necessary information for plan participants. The third question, of persuasion, does not appear to be relevant here. However, there are areas in which the two Quick Reference Guides can become more effective at helping plan participants *understand* that information and *act* on it.

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<sup>1</sup> For reference, the Council can find a more detailed write-up of this conceptual framework, and how to apply it when designing communications, in my comments for the Council about the Lump Sum Notice on August 18, 2015.

## **Helping Plan Participants Take Action**

### **Identifying the Problem**

The two Quick Reference Guides provide valuable information. It is unclear, however, which specific problems the Guides are meant to solve for employees. For good or for ill, few people want to learn more about their plans in isolation. Instead, they have a particular problem they are facing, and reach out to resources like the Guides to help solve that problem.

For the Health Plan Quick Reference Guide, some of the potential problems the guides *could* solve include: selecting a health plan as a new employee, determining whether a particular procedure is covered, finding out whether a doctor is in-network, and determining the cost of out-of-network doctors.

For the Retirement Plan Quick Reference Guide, some of the potential problems the guides *could* solve include: signing up for the plan as a new employee, determining how much money to contribute to the plan, and rolling money in (or out) of the plan.

Currently, the Guides seem to provide some information relevant to each of these problems, but it also includes much more. The result is unfortunately overwhelming. The proposed Quick Reference Guide for Health Plans, for example, is seven pages long, which undermines the goal of being a “quick reference”. By identifying the specific primary problem or problems to be solved, the guides can be shortened and focused considerably. As noted in the Guide, plan participants who need more detailed information or have less common issues they wish to address can always reference the Summary Plan Description (SPD).

Where does the “specific problem(s)” come from? Ideally, it comes directly from the plan participants: via interviews, HR experts who work directly with the participants, or from empirical data about the challenges that most plan participants face. The problems listed above (signing up, determining contribution amount, etc.) are in my experience some of the most common problems, but the Council is better suited to decide on the issues that are relevant across the broad swathe of Americans.

### **Identifying the Action**

Related to the problem to be solved, it is also unclear what specific action the Guides are intended to drive. For example: if the problem the participant wants to solve is to determine the right contribution rate, then what action should they take? Should they use a spreadsheet to calculate their long-term retirement needs, subject to inflation, taxes, health risks, etc.? Or, is there a simple online tool for plan participants that the company can direct them to? Clearly the latter would be preferable.

One of the core lessons of applied behavioral science is that in order to help people take action, we should make sure that we are actually *asking* them to take the right action. Thus, for each section of the Guides that discuss a problem, **include a specific action the person should take to solve the problem.** At present, the primary *action* the text asks of readers is to go to the relevant section of the SPD, which is unlikely to solve the problem.

Often, people believe that this type of communication is designed merely to inform and educate people. However, informing and educating are just the start. If employees read the Guides, but the Guides have no impact on employees' actions and choices (in how they pick plans, etc.), then the Council and the plan sponsor would have wasted their energy. Knowing the *action* you want to help participants take is an essential foundation for effective communication.

## **A Technique for Identifying Obstacles: The Behavioral Map**

One potentially useful technique that we use when designing communications like this is to do what's known as a "behavioral map". A behavioral map sketches out each of the small steps that lead to success, demonstrating what is required for the person to take the final action that solves their problem. The map can be linear, showing the most likely path for the individual, or a more nuanced diagram showing the likely entry and exit points from the process.

For example, if "success" means that the plan participant selects a health plan that is appropriate to his or her needs, a sample behavioral map might look like:

- a) Attend open enrollment session
- b) Review the voluminous information (digitally or on paper) provided and do what's absolutely required: fill out a W9, etc.
- c) Put the rest aside to read later
- d) Remember to go back and read the material, probably based on a triggering email from the employer about deadlines
- e) Figure out which health plan options are available for them
- f) Since the mathematics making the absolutely optimal choice is often overwhelming (and unknown), determine a short heuristic to evaluate the options. For some people, it's "always go lowest price and take our chances". For others, it's "go with what covers my chronic condition X".
- g) Try to gather the information needed for that heuristic, if any. For example, by checking how much they'd spent last year.
- h) Go to the appropriate signup page on the benefits portal, etc...

This process may seem trivial, but when we do this, we discover two things:

- a) **Overlooked steps.** There are many small actions that we normally forget. There is often significant complexity, and hidden assumptions, that an expert in the field naturally overlooks. The rigor of writing out each of these micro-actions brings those assumptions and that complexity to the fore.

- b) **Obstacles along the way.** People often struggle not with the big picture "why am I doing this," but rather with the details of these micro-actions. Most employees already know that healthcare is important, and that it can be very costly if they make a mistake. However, a small friction—like needing to look up last year's medical expenses—can cause them to procrastinate.

With this behavioral map in hand, we then look for likely obstacles that plan participants face, and identify specific ways in which the communication can help participants overcome these obstacles.

There are specific behavioral research studies that discuss how to overcome particular obstacles. For example, there is a large body of literature on how to present information about retirement contributions to encourage sufficient savings, which discusses techniques such as lump sum versus monthly income display.<sup>2</sup> There is also a non-academic practitioner literature that the Council can draw upon, to address design or presentation issues.<sup>3</sup> For a summary of both bodies of literature as they relate to benefits communications and information, see the book *Improving Employee Benefits*.<sup>4</sup> In many cases however, specialized behavioral techniques aren't needed. The process of creating a behavioral map draws the practitioner's attention to a previously hidden problem, and an obvious solution presents itself.

## Facilitating Action

In addition to the behavioral map discussed above, here are a few recommendations on how the Council can help facilitate action:

- 1) **Remove steps.** Where possible, remove extra steps between the reader's intention to act, and the action itself. There is a considerable academic and practitioner literature showing the efficacy of removing friction and entire steps from an action path.<sup>5</sup> In the case of the Retirement Quick Reference Guide, for example, the Guide currently directs people to the Form 5500: by telling people to search for it on the Department of Labor website. Ideally, this would be changed in electronic disclosures by linking directly to the 5500.
- 2) **Support immediate action.** Where possible, help the individual take action immediately rather than simply providing additional information. For the Health Plan Quick Reference Guide, if the reader is trying to determine eligibility, link directly to the insurer's site for eligibility checks or to online services that provide that function (e.g. Castlight), when offered by the employer. A direct

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<sup>2</sup> Goldstein, D.G., Hershfield, H.E. and Benartzi, S., 2016. The illusion of wealth and its reversal. *Journal of Marketing Research*: October 2016, Vol 53, No 5.

<sup>3</sup> See WhichTestWon.com for a repository of numerous randomized control trials in this area.

<sup>4</sup> Wendel, S., 2014. *Improving employee benefits: Why employees fail to use their benefits and how behavioral economics can help*. Longfellow Press.

<sup>5</sup> For a summary see Thaler, R.H. and Sunstein, C.R., 2009. *Nudge: Improving Decisions About Health, Wealth, and Happiness*. Penguin.

link to where readers can take action would be much more effective than linking them to the relevant section of the SPD for more information as the Guide currently does.

- 3) **Encourage specific planning.** Where the Quick Reference Guide is unable to remove steps from the process or support immediate action, it can encourage the individual to plan out the required steps to take action in the future. One way to do this is to ask them to write out the time or date when they expect to follow through on the action, and what issues they may encounter. The research literature shows this approach, implementation intentions, can increase follow through.<sup>6</sup>
- 4) **Provide clear deadlines.** Where the Guide references an action that has a deadline, such as changing health plans, make the deadline clear and highlight it. Explicit deadlines can help motivate people to follow through in a timely manner.<sup>7</sup>

## Understanding the Information Provided

The previous section discussed how to help plan participants take action, to solve a health- or retirement-related problem they face. Next, here are some comments on the presentation of the information that could make it easier to understand.

### Less Text

For each specific problem, I would suggest giving a short (single sentence) answer to the question, caveated if needed ("in general..."). For example, in the Quick Reference Guide for Health Plans, the "Are you Eligible" section is very important but provides nearly an entire page of information on that question alone. For most employees, a simple shorter summary is enough. For example:

“Yes, if you are scheduled at least [30] hours per week regularly.”

Perhaps also with:

“Coverage begins on the first day of the month after you (a) you begin working, and (b) you submit your enrollment form. If you are on leave or become disabled, there are special rules - see the SPD. “

Or, for another example, for the "*How Do You Enroll in the Plan?*" section, a simple short summary would be:

“You complete the enrollment form (here\_\_\_), and submit it on paper or at this website \_\_\_.”

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<sup>6</sup> E.g., Milkman, K., et al. (2011) *Using implementation intentions prompts to enhance influenza vaccination rates*. Proceedings of the National Academy of Sciences of the United States of America, 108 (26): 10415-10420

<sup>7</sup> Ariely, D., Wertenbroch, K., (2002)

Related issues in the text can then become short answers to other easy-to-scan questions.

### **Details Can Come Later**

There is a natural tension, in guides like these, between providing enough detailed information to be accurate and providing a concise enough document that people will actually read. In addition, for these Guides, there are legal or regulatory requirements that must be met about providing certain detailed information to plan participants.

One way to resolve this tension is to “do both”: be concise initially, and more detailed later. The first section of the document can provide the very concise summary (a maximum of two pages) focused on the most common problems participants face and how to solve them in most cases. Then, more detailed information, providing necessary additional elements can come afterwards. Most readers can quickly scan the first part. The remaining readers can find what they need in the rest of the text.

For example, in the Retirement Plan Quick Reference Guide, the “Basic Information Section” includes information such as the IRS Identification Number for the plan, and the time period for which the plan keeps its books and records. For most participants, that information is not relevant to the immediate problems they want to solve. It can safely go in the “More Information” section after the short summary.

### **A Reference Table**

There are multiple documents and resources people can use for more information, many of which may not be familiar to plan participants. Could the document provide a short table in the beginning that gives their name, description, and purpose? This includes the Quick Reference Guide itself: The Health Plan Guide introduction does not indicate what the Guide is for, whereas the Retirement Plan Guide does.

### **Too Many Callout Boxes**

The boxes on the right of the two Guides are too much of a good thing. Visually encapsulated boxes are great when there is a specific call to action. They lose their power when there are numerous callouts, or don't have enough meaningful "calls to action". In this situation, the boxes provide links to more information, rather than a specific action to take. These references could be placed at the end of each section, ideally in electronic form with a hyperlink that links directly to the relevant section of the SPD.

### **Avoid Insider Terms**

In various places, the Guides use terms that would only be familiar to readers who are already very familiar with the Health or Retirement plan domains. They do not define the terms, but rather assume the reader already knows them. For example, the Retirement Plan Guide states “if you are unsure of your ‘risk tolerance’, you can fill out the ‘Develop your investment mix’ worksheet”. A more direct, non-technical version might be: “if you are unsure of what types of investments are right for you, you can fill out the ...”. Other terms used include “qualified distribution” and “continuation coverage.”

## **Conclusion**

Thank you again for the opportunity to speak with you today. The proposed Quick Reference Guides are a valuable step towards providing plan participants meaningful, accurate, and actionable information about their health and retirement plans. With a deeper understanding of specific problems the Guides are meant to solve, and the actions that readers can take to solve those problems, the Council can increase the Guides’ effectiveness even further.

## **Appendix: About the Author**

Stephen Wendel is the Head of Behavioral Science at Morningstar, where he leads a team of behavioral researchers and practitioners applying behavioral science to the practical challenges of engaging individuals in their financial decisions, and improving their financial outcomes. His team has conducted over three hundred randomized control trials in this area, particularly around communications with plan participants. He is the author of the books *Designing for Behavior Change*, and *Improving Employee Benefits*, which demonstrate how behavioral lessons can be applied to product design and employee communications, respectively. He is the founder of the Action Design Network, a non-profit organization that holds monthly events in ten cities for over 10,000 members: on how to apply behavioral science to product design for social good.