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I am the former Director of the Pension Action Center of the Gerontology Institute at the University of Massachusetts Boston. The Pension Action Center is home to the New England Pension Assistance Project and the Illinois Pension Assistance Project. These projects have recovered close to \$60 million in pension benefits for residents of New England and Illinois. Our Center is one of six Pension Counseling and Information Projects nationwide, all funded through the U.S. Administration for Community Living. These projects provide free, direct counseling and advocacy to individuals, enabling them to claim the retirement income they have earned. Our Project is the only source of free expert legal advocacy for individuals in the seven states we serve, and our clients are primarily low- and moderate-income workers, retirees, and their families. We help them to secure pension benefits which would otherwise very likely go unpaid.

It goes without saying that the purpose of ERISA's required disclosures is to ensure that participants and beneficiaries can understand their rights and obligations under their retirement plans, and to enable participants and beneficiaries to monitor the overall financial status of their plans.

At the Pension Action Center, we heard from people every day who did not understand basic information about their plan – how do I become vested, how is my benefit calculated, when can I claim my benefit, what are my benefit payment options, under what circumstances could my benefit be suspended or forfeited. We also heard from people who had received disclosure notices from their plan, and were anxious about the meaning of the disclosure. Many callers did not understand the information which the notice sought to convey, what they should do with the notice they have received, and whether they should be taking any action based on the notice. In short, plan disclosures, while vital to participants, are often laden with both legal and financial jargon that is confusing and difficult for the average lay person to understand.

The Labor Department's proposal to move toward electronic disclosure is a move which we do not support, as it runs counter to our experiences in day-to-day interactions with our clients.

The plan document, Summary Plan Description, Annual Funding Notice, individual benefit statements, and fee and investment performance disclosures are fundamentally important information for workers, retirees, and their families.

The method of delivery **must ensure receipt by participants and beneficiaries and must not require undue effort on the part of the recipients.** The method of delivery should not present

hardship or complications for participants, even for just a few participants. Participants should not have to go to a library to read information posted on a website nor should they have to visit a kiosk or other workplace posting to read required disclosures. Moreover, ERISA disclosures are complex and cannot be understood with a cursory glance. Paper copies are needed so that participants can review the information provided at their own time and pace. If a participant is merely notified of additional steps which he or she must take to get benefit information, there is a high likelihood that many participants would never actually obtain the information. Behavioral economics suggests that many participants would not make the additional effort to receive required disclosures. **Since required disclosures impart important plan information, they must be delivered in a manner that guarantees receipt.**

In August of 2017, I testified before the ERISA Advisory Council on a number of issues regarding plan disclosures, including the issue of delivery methods. My testimony at that time echoed and amplified that of the Pension Rights Center and the AARP. **All of us who testified on behalf of plan participants stated that summary plan descriptions and benefit statements should be delivered only by first class mail unless a recipient opts-in to electronic disclosure. These are crucial disclosures for participants and beneficiaries.** It is most important for participants to read them and keep them for future reference. For all other disclosures the Center supports the Labor Department's safe harbor for electronic disclosures put forth in the 2002 regulations.¹ This safe harbor permits electronic disclosure to employees who work daily with the employer's computer network as part of their duties. The safe harbor also permits participants and beneficiaries to opt-in to electronic disclosure when the criteria for electronic disclosures are met.

Thank you for the opportunity to comment on this matter.

Sincerely,

Jeanne M. Medeiros, Esq.

¹“Final Rules Relating to Use of Electronic Communication and Recordkeeping Technologies by Employee Pension and Welfare Benefit Plans,
<http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=19158>