



DOL, Treasury, and HHS Delay Applicability Date of Summary of Benefits and Coverage Requirements

On November 17, 2011, the Departments of Labor, the Treasury, and Health and Human Services released Part VII of their FAQs providing sub-regulatory guidance on PPACA's provisions. Part VII addresses the summary of benefits and coverage requirements' applicability date.

Background

Under the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (collectively, PPACA), all group health plans that are subject to the PPACA market reform provisions, including grandfathered plans, will be required to furnish a summary of benefits and coverage (SBC) to participants and beneficiaries. Retiree-only and HIPAA-excepted benefit plans (e.g., stand-alone dental and vision plans) are not subject to PPACA, and therefore, do not need to provide an SBC. An SBC must “accurately describe the benefits and coverage under the applicable plan.”

PPACA directed the Departments of Labor, the Treasury, and Health and Human Services (the Departments) to develop, in consultation with the National Association of Insurance Commissioners, SBC standards. On August 22, 2011, the Departments issued proposed regulations and a proposed SBC template and uniform glossary. PPACA requires group health plans and health insurance issuers to comply with the SBC requirements no later than 24 months after the enactment of PPACA (i.e., for enrollments or reenrollments on and after March 23, 2012). In the proposed regulations, the Departments proposed an applicability date beginning on March 23, 2012 and requested comments on the feasibility of implementing the SBC requirements by that date. (See our October 19, 2011 [For Your Information](#).)

FAQs Part VII

On November 17, 2011, the Departments issued [Part VII of the FAQs](#). Part VII addresses the issue of the SBC applicability date. In the FAQs, the Departments delay compliance with the SBC requirements, stating that “until final regulations are issued and applicable, group health plans and issuers are not required to comply with” the requirements. The Departments do not give a specific applicability date. Instead, they state that the final regulations will give “group health plans and health insurance issuers sufficient time to comply.”

BUCK COMMENT. *The delayed applicability date was expected. The Departments released the proposed regulations in August 2011, and the final regulations are not expected until very late in 2011 at the earliest. Because of the lack of clarity concerning the application of many of the requirements to*

employer plans, it would have been difficult for plans to implement the proposed regulations' requirements in anticipation of a March 23, 2012 applicability date. It is not yet clear how long the Departments will delay the applicability date. Employers and trade associations have asked the Departments to delay the applicability date until the 2014 plan year or at least 18 months following the issuance of the final regulations.

Conclusion

While group health plans and issuers are not required to comply with the SBC requirements until final regulations are issued, it is unknown how long the delay will be beyond the March 23, 2012 date provided in PPACA and the proposed regulations. Because it is uncertain how much additional time group health plans and issuers will have to implement the SBC requirements, plan administrators will want to move forward with discussions with their insurers or third party administrators. Buck's consultants are available to assist you with these discussions.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.