

Departments Propose Updates to Summary of Benefits and Coverage

The departments recently proposed regulations designed to streamline the substance and format of the Summary of Benefits and Coverage (SBC). Accompanying the proposed rules are new SBC templates, instructions, coverage examples, and a new uniform glossary. Plan sponsors should prepare to act quickly when the guidance is finalized, as it would require revising all SBCs by the start of the enrollment period or plan year beginning on or after September 1, 2015.

Background

Under the Affordable Care Act (ACA), group health plans and health insurers must provide SBCs to participants and beneficiaries when they first enroll in coverage, during open enrollment, and on other specified occasions. The primary objective of the SBC is to help participants easily compare coverage options and better understand their health benefits.

In February 2012, the Departments of Labor, Treasury, and Health & Human Services (departments) issued final regulations on SBCs, along with a prescribed template and instructions. Plans and issuers were first required to furnish SBCs in connection with open enrollment periods for the plan year that began on or after September 23, 2012. (See our [March 1, 2012 For Your Information](#).) Subsequently, the departments issued SBC-related guidance in the form of Frequently Asked Questions (FAQs), along with a revised SBC template. (See our [May 22, 2012](#), [May 10, 2013](#), and [March 27, 2012 For Your Information](#) publications.)



New Proposed SBC Rules

In an effort to incorporate the feedback on and guidance issued since the 2012 final regulations, on December 30, 2014, the departments proposed [new SBC regulations](#), along with a new proposed [SBC template](#), instructions, coverage examples, and an [updated uniform glossary](#). These proposed rules incorporate much of the guidance previously released through FAQs.

These requirements would apply to group health plans by the start of the first open enrollment period that begins on or after September 1, 2015. For disclosures during special enrollment periods, the proposed changes would apply on the start of the first plan year beginning after September 1, 2015. Comments were due by March 2, 2015.

Highlights of the proposed rules, as relevant to group health plan sponsors, include the following:

SBC Appearance

A new, shorter proposed SBC template eliminates some previously required information to bring the length down from four double-sided pages to two and a half double-sided pages.

Comment. While this simplification is welcome, it means that employers must revise all of their current SBCs.

Additionally, under the proposed rules, SBCs can be provided either on a stand-alone basis or accompanying other “summary materials” (like an SPD), so long as the SBC information remains intact and is prominently displayed at the beginning of the summary materials.

SBC Content

The proposed regulations make several changes to SBC requirements, including:

- That statements about minimum essential coverage (MEC) and minimum value (MV) standards must be in the SBC itself; it is no longer acceptable to include this information only in a cover letter provided along with the SBC
- Adding a third coverage disclosure example (to the existing coverage examples of maternity care and diabetes) of a simple foot fracture with an emergency room visit; the departments are also publishing draft updated claims and pricing data information on the existing examples, as well as a narrative description and claims and pricing data associated with the new example

Comment. Because of the draft updated claims and pricing data information, employers will need to update the existing coverage examples (in addition to adding the new one).

- Authorizing continued use of the “coverage example calculator,” which was originally intended to serve as a temporary resource

SBC Form

The proposed regulations incorporate earlier guidance specifying that SBCs may be provided electronically along with online enrollment or online renewal of coverage under the plan, as well as to participants and beneficiaries who request an SBC online — so long as there is an option to receive a paper copy upon request. They also incorporate model language from an FAQ informing participants and beneficiaries that the SBC is available on the Internet.

Coverage Not Subject to the SBC Requirement

The proposed regulations would not require employers to provide SBCs for:

- EAPs that qualify as an excepted benefit (see our [October 8, 2014 For Your Information](#))
- Medicare Advantage plans
- Expatriate plans

Non-English SBCs

The proposed regulations maintain the requirement that SBCs be presented “in a culturally and linguistically appropriate manner.” Thus, on request, an SBC must be provided in a non-English language to individuals who reside in counties identified by the Census Bureau as having 10% or more of their population literate only in the same non-English language.

The departments recently published an [updated list](#) of affected counties. Missouri now includes one county — Sullivan County — where Spanish SBCs are required, and numerous counties have been added or deleted in other states that already had affected counties.

In Closing

Plan sponsors should pay close attention to the proposed changes to the SBC, with an eye toward necessary modifications once final regulations issue. With the proposed modifications set to take effect with this fall’s open enrollment, it will be necessary to act quickly. Failure to comply with SBC-related requirements can trigger penalties under Code Section 4980D, which generally assess \$100 per day/per individual/per violation and can add up rapidly.

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