

Departments Finalize SBC Rules; Updated Template Expected by 2016

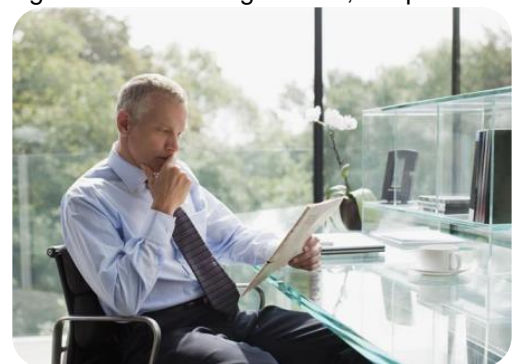
Final regulations governing the substance, form and distribution of the Summary of Benefits and Coverage (SBC) track the 2014 proposed rules. Plan sponsors should make sure that SBCs provided in connection with fall 2015 open enrollment periods comply with these new rules, which incorporate previously issued FAQs. The departments plan to release a new SBC template and associated material by January 2016, which will apply for coverage beginning in 2017.

Background

The Affordable Care Act (ACA) requires group health plans and health insurers to 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 (DOL), Treasury, and Health & Human Services (departments) issued final regulations on SBCs, along with a prescribed template and related material. Subsequently, the departments issued SBC-related guidance in the form of Frequently Asked Questions (FAQs), along with a revised SBC template. (See our [May 10, 2013](#), [May 22, 2012](#), and [March 27, 2012](#) *For Your Information* publications.)

On December 30, 2014, the departments proposed new SBC regulations, along with a new proposed SBC template, instructions, and updated uniform glossary. These proposed regulations incorporated much of the guidance previously released through FAQs, and made the proposed changes to the SBC regulations, template and associated documents applicable to the start of the enrollment period or plan year beginning on or after September 1, 2015. (See our [March 2, 2015](#) *For Your Information*.)

In a March 30, 2015 [FAQ](#), the departments stated their intent to finalize changes to the SBC regulations in the near future, with the regulations applicable to coverage that renews or begins on the first day of the first plan year beginning on or after January 1, 2016 — including open enrollment periods in fall 2015. For the SBC template and associated



documents, however, the departments said they planned to conduct consumer testing — with the final material applicable to 2017 coverage, including fall 2016 open enrollment. (See our [April 14, 2015 For Your Information](#).)

Final Rule Adopts Provisions of Proposed Regulations

Receiving very few comments on the 2014 proposed regulations, the departments adopted [final regulations](#) that track those proposed last year. A [fact sheet](#) summarizing the final rule was also released. These rules generally apply to participants and beneficiaries who enroll or re-enroll in group health coverage through an open enrollment period beginning on or after September 1, 2015. For participants and beneficiaries newly eligible for coverage, or who are special enrollees, the rules apply on the first day of the first plan year beginning on or after September 1, 2015.

Specifically, the final regulations adopt the changes to SBC content, appearance, form, and presentation discussed in our [March 2, 2015 For Your Information](#). The final rule also streamlines SBC distribution with rules designed to prevent “unnecessary duplication.” For example, the final regulations codify a 2012 enforcement safe harbor that allows group health plan sponsors to synthesize information from two or more insured products provided by separate insurers into a single SBC, or provide multiple partial SBCs that, put together, provide all necessary SBC contents.

Additionally, with respect to the electronic disclosure of SBCs, the final rules adopt a previously issued safe harbor for electronic delivery of SBCs to any participant or beneficiary who enrolls in or renews coverage online, or who requests an SBC online. This safe harbor allows for broader electronic disclosure than is generally permitted (absent prior consent) under the DOL’s electronic distribution rules, which require that a participant have work-related computer access as an integral part of his or her job duties.

Comment. The DOL is currently reviewing its rules on the use of electronic media to furnish information to participants and beneficiaries covered by ERISA plans. Because SBC regulations adopt ERISA electronic disclosure rules, any future changes to the DOL’s electronic disclosure rules will apply to ERISA plan SBC disclosures.

Finalized Template and Accompanying Material Forthcoming

In this guidance, the departments said they expect to finalize a revised SBC template, instruction guide, uniform glossary and other supporting material by January 2016. These documents are expected to apply to coverage for plan years beginning on or after 2017.

Comment. The new template, as proposed, eliminates some previously required information in order to reduce the SBC length from four double-sided pages to two and one-half double-sided pages. It would also revise the coverage examples. These changes, if finalized, would require employers to revise all of their current SBCs.

The departments received many comments on the proposed changes to the template and associated documents, and more feedback will come in the form of consumer testing. As such, it remains to be seen whether the final versions of this material will differ significantly from the departments’ 2014 proposal.

In Closing

Plan sponsors should ensure that their SBCs for fall 2015 open enrollment are up to date in light of these final regulations — but this will not be burdensome for those that updated their SBCs to account for the FAQs that followed the 2012 final regulations. The SBC template and accompanying material, however, if finalized in a similar manner to the proposed documents, will require revised SBCs in time for open enrollment in fall 2016.

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