

## Guidance on New Disclosure Requirement for Group Health Plans and Insurers: Introducing the “SBC”

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Starting March 23, 2012, plan administrators and insurers will be required to provide a uniform Summary of Benefits and Coverage (“SBC”). The SBC is a new, additional required disclosure, and does not replace the summary plan description (“SPD”) or summary of material modification (“SMM”).

On Aug. 22, 2011, the Departments of Labor, Treasury, and Health and Human Services issued [proposed regulations](#) setting out standards for the new 4-page benefit summary required under the Patient Protection and Affordable Care Act. The proposed rule sets out the content and format of the disclosure, who must provide and who will receive the summary, and when and how the summary will be provided. On the same day, the agencies issued [a template of the SBC and a new uniform glossary of terms](#) commonly used in health insurance coverage.

The SBC’s purpose is to help consumers better understand their options and thereby make better-informed decisions about their health care coverage. Under the proposed regulations, insurers and group health plans would provide clear and consistent information to consumers in a short, easy-to-read format, using uniform terms. Because every group health plan would be outlined in an SBC, the use of SBCs is also expected to result in greater transparency in pricing and benefits information and help consumers, including plan sponsors, more accurately compare coverages.

### Who must provide the SBC?

Group health plans and health insurance issuers must provide the SBC for each benefit package offered for which the individual is eligible. For example, if a plan has multiple benefit options, such as a choice of a PPO or a high-deductible plan, the plan will need a separate SBC for each option.

For group health plans, the plan administrator is responsible for providing the SBC. For insured group health plans, the SBC may be delivered either by the group health plan or the insurer, but only one SBC needs to be delivered.

### When must the SBC be provided?

The SBC must be provided to a participant, as well as the participant’s spouse and eligible dependents, at the time of enrollment, at special enrollment, and within seven (7) days upon request. In addition, the SBC must be provided each year at renewal, making the SBC effectively an annual notice requirement. If renewal is automatic, the SBC must be provided at least 30 days prior to the first day of coverage under the new plan year. If renewal requires written application materials, in either paper or electronic form, the plan must provide the SBC no later than the date the materials are distributed.

If there is a mid-year change to a plan or policy that is a material modification that affects the content of the SBC, a notice of the modification must be provided 60 days in advance of the effective date of the change. For ERISA-covered group health plans, this notice is in advance of the DOL requirement to provide a summary of material modification (SMM) generally not later than 210 days after the close of the plan year in which the change is adopted, or in the case of a material reduction in covered services or benefits, not later than 60 days after the date of the adoption of the modification.

An SBC does not have to be provided in open enrollment materials for calendar year plans for 2012 enrollment. However, an SBC must be distributed by March 23, 2012.

### How must the SBC be provided?

The SBC may be distributed to participants in paper or electronically, such as in an e-mail or an internet posting, provided the requirements for electronic distribution under ERISA are satisfied.

The SBC is intended to be a stand-alone document, but the agencies have requested comments regarding whether the SBC should be allowed within an SPD if the SBC is intact and prominently displayed at the beginning of the SPD,

provided all the other timing requirements for SBCs are met.

If the SBC is distributed in paper, and the plan records show that a participant and any other beneficiaries reside at the same address, a single SBC may be mailed to that address.

#### **What elements must be included in an SBC?**

SBCs must be presented in a uniform format, not to exceed four double-sided pages, in print no smaller than 12-point font. Each SBC must have the following information:

- › Uniform definitions of standard insurance terms and medical terms
- › A description of the coverage
- › A description of the exceptions, reductions and limitations of coverage
- › The plan's cost-sharing provisions, including deductibles, coinsurance, and copayment
- › The renewability and continuation of coverage provisions
- › For coverage beginning on or after Jan. 1, 2014, a statement whether the plan provides the minimum essential coverage and whether the plan's share of total allowed costs of benefits meets the applicable requirements under the Patient Protection and Affordable Care Act
- › Coverage examples that illustrate benefits provided under the plan
- › A statement that the SBC is only a summary, and referring the reader to the plan document or certificate of insurance
- › Contact information for questions
- › Internet address for obtaining a list of network providers for plans and issuers that maintain one or more networks of providers
- › Internet address for obtaining information on prescription drug coverage for plans and issuers that use a formulary in providing prescription drug coverage
- › Internet address for obtaining a uniform glossary of terms
- › Premiums (or in the case of a self-insured group health plan, the cost of coverage)

#### **Next Steps**

Plan sponsors should take the following steps to prepare for complying with the SBC requirement:

- 1.) Determine how many benefit options will be offered under the group health plan(s) for the 2012 Plan Year and establish how many SBCs will be required
- 2.) Determine what method will be used for distributing the SBC(s), (paper or electronic?)
- 3.) Negotiate with third-party service providers to determine who will be preparing the SBCs, who will provide notice modifications when necessary, and whether the preparation of the SBCs will impact the fee arrangement.
- 4.) Decide whether the plans will provide SBCs in time for 2012 annual enrollment, even though that is not required, or wait to distribute them by March 23.

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