

## Agencies Issue Proposed Regulations on Summary of Benefits and Coverage Requirement

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On August 22, 2011, the Departments of Treasury, Labor, and Health & Human Services (the "Agencies") jointly issued proposed regulations regarding the new Summary of Benefits and Coverage ("SBC") required by the Patient Protection and Affordable Care Act of 2010 (the "ACA"). Under the proposed regulations, on March 23, 2012, insurers and employers that provide group health coverage, including sponsors of grandfathered plans, must begin providing SBCs in accordance with the proposed rules.

The proposed regulations include two general requirements: (i) group health plan insurers must provide an SBC to a group health plan or the group health plan sponsor, and (ii) group health plan insurers or group health plans must provide an SBC to each participant and beneficiary. In general, employers that provide group health plans to employees will only need to be concerned with the later requirement to deliver SBCs to participants and beneficiaries.

The proposed regulations also provide guidance regarding:

- When SBCs must be provided
- Number of SBCs required
- Rules to prevent duplication
- Who is entitled to receive an SBC
- Delivery requirements
- Content and formatting requirements

The proposed regulations additionally require a group health plan insurer or sponsor to provide participants with a uniform glossary of terms.

Guidance regarding the ACA's notice of modification requirement is also provided by the proposed regulations. Pursuant to this guidance, participants must be notified 60 days in advance of the effective date of any modifications to plan features described in the Participant SBC.

The Agencies also released an SBC template and instructions for completing the model. The model demonstrates that in contrast to earlier understandings regarding the SBC, the SBC may not be longer than four pages double-sided, and the four-page limit does not include the uniform glossary of terms.

Employers that willfully fail to comply with the SBC requirements will be subject to a fine of \$1,000 for each failure with regard to each participant or beneficiary. Other penalties may also apply, meaning the fines for non-compliance with the SBC requirements could be costly. Comments on the proposed regulations will be accepted until October 21, 2011.



Given the March 23, 2012 effective date, Reed Smith encourages its clients to begin taking action to satisfy the requirements of the proposed regulations. If you have any questions about the proposed regulations or this *Alert*, please contact one of the individuals listed below or your Reed Smith attorney.

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