

Final Regulations Provide Guidance on Required Summary of Benefits and Coverage for Group Health Plans and Health Insurers

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On February 9, 2012, the Department of Health and Human Services, the Department of Labor, and the Treasury Department (the "Departments") released joint final regulations regarding the Patient Protection and Affordable Care Act's ("PPACA") summary of benefits and coverage (an "SBC") requirement applicable to group health plans and health insurers. The regulations finalize the proposed SBC regulations issued in August 2011 [*Client Alert 2011-288*] and implement PPACA's requirement that group health plans and health insurers provide participants with an accurate summary of benefits and coverage.

Effective Date Delayed. A major modification made by the final regulations is a delay in the SBC effective date. The proposed regulations included an effective date of March 23, 2012. Under the final regulations,

- Health insurers issuing individual policies must comply as of September 23, 2012, and
- Group health plan administrators must comply by:

The first day of the first open enrollment period that begins on or after September 23, 2012, for participants and beneficiaries who enroll or re-enroll in group health coverage through an open enrollment period; or

The first day of the first plan year that begins on or after September 23, 2012, for participants and beneficiaries who enroll in group health plan coverage other than through an open enrollment period (such as, individuals who are newly eligible for coverage and special enrollees).

Other Changes and Clarifications include:

- Removal of the requirement to include information on premiums or cost of coverage

- Clarification regarding if and when an SBC is required for excepted benefits (such as, stand-alone dental or vision plans and certain health care flexible spending accounts), a Health Savings Account, or a Health Reimbursement Account
- Clarification regarding when a separate SBC must be provided to a participant's beneficiaries
- Modifications made to the date an SBC must be delivered to special enrollees
- Requirement for electronic disclosure of the SBC
- Confirmation that an SBC may be provided either as a stand-alone document or in combination with other summary materials (such as, a summary plan description), as long as the SBC information is intact and prominently displayed at the beginning of the materials

Required Notice of Modifications to SBC. The final regulations include rules regarding the notice of modifications, a document that must be provided to participants or policyholders 60 days in advance of the date plan or coverage changes become effective.

Sample Language. The final regulations include a uniform glossary of commonly used medical terms, and an SBC instructions template, a sample SBC, and a guide for coverage example calculations.

Employers that sponsor a group health plan and health insurers should begin taking action now to prepare for compliance with the SBC requirement and other disclosure requirements contained in the final regulations. If you have any questions regarding the SBC disclosure or the final regulations, please contact one of the members of Reed Smith's Health & Welfare and Employee Benefits team listed below, or your Reed Smith attorney.

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